

marked up report

From: Mine Kocak <minek@canterbury.nsw.gov.au>
To: "Brewer, Michael" <michaelbrewer@willana.com.au>
Cc: "Gouvatsos, George" <georgeg@canterbury.nsw.gov.au>, "Stavis, Spiro" <spiros@canterbury.nsw.gov.au>
Date: Thu, 12 Nov 2015 11:51:01 +1100
Attachments: IMAGE.jpg (27.08 kB); IMAGE.png (27.56 kB); 20151112113958566.pdf (27.21 MB)

Hi Michael,

Please find attached report as marked up by Spiro. All of the changes have been made except the highlighted ones which are questions/comments for you to consider.

I will keep working on updating the report based on your last e-mails.

Please let me know if I can be of any assistance.

Thanks

Mine Kocak | [Planner](#)

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9482 | F: 9789 1542 | minek@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



>>> <Planning03.Scanner@canterbury.nsw.gov.au> 12:39 PM 12/11/2015 >>>

This E-mail was sent from "AB-Planning03" (MP C5503).

Scan Date: 11.12.2015 11:39:58 (+1000)

Queries to: Planning03.Scanner@canterbury.nsw.gov.au

**548-568 CANTERBURY ROAD, CAMPSIE: ADDITIONAL TWO (2) LEVELS
TO AN APPROVED SIX (6) STOREY MIXED USE DEVELOPMENT
COMPRISING AN ADDITIONAL SEVENTY EIGHT (78) RESIDENTIAL
APARTMENTS**

FILE NO: 539/37D PT10 & 11

REPORT BY: DIRECTOR CITY PLANNING

WARD: EAST

DA Number:	DA-592/2014
Applicant/ Owner:	Statewide Planning Pty Ltd / Harrison's Timber Pty Ltd
Zoning:	B5 Business Development under Canterbury Local Environmental Plan 2012
Application Date:	15/12/2014

EXECUTIVE SUMMARY

- Council has received a Development Application (DA-592/2014), seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two (2) residential levels containing 78 units, ^{being a capital investment}

The approved development (DA-509/2013) currently consists of 16 ground floor commercial units, 254 residential units and associated basement car parking.

DA-509/2013 was approved by the Sydney East Joint Regional Planning Panel (JRPP) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the original development had a capital investment value of greater than \$20 million.

The site is known as 548-568 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.

- This development application (DA) has been assessed against the provisions contained in State Environmental Planning Policy No.65 = Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy No.55 = Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, CLEP 2012 and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is

REPORT OF

found to generally be in compliance with the requirements of these policies.

- The proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 20 October 2015 and 18 November 2015. Three (3) submissions have been received objecting to the proposal. Issues raised in the submissions and are provided in the body of this report.
- Council is also concurrently assessing a Section 96 (1A) application seeking to amend DA-509/2013, which approved the mixed use development that the subject DA relates. The Section 96 (1A) application seeks to approval for various alterations and additions, as well as an extension to the basement level 3 car park. The parking spaces in the basement level 3 extension will be allocated to the additional units proposed by this DA. Despite the additional parking proposed in this application, it is deficient by fifteen (15) car spaces and two (2) bicycle spaces, when the development is viewed in its final form. Conditions have been imposed to ensure that adequate parking can be provided prior to the issue of a Construction Certificate. *which are considered general improvements to the development*
- Notwithstanding the variation sought to building height standard, the development application is recommended for approval subject to conditions.

SITE DETAILS

The subject site is identified as Lot 106 DP 624546 and known as No. 548-568 Canterbury Road, Campsie. The irregular shaped land holding has frontage to Canterbury Road of 117.95 m to the north and a frontage to Elizabeth Street of 27.7 m to the east and a total site area of 8275 m². The site backs onto the adjoining allotments at 538-546 Canterbury Road and 570-572 Canterbury Road to the east and west respectively. The site has a slight cross fall from the north-west to the south-east of the allotment.

The site was previously occupied by a two storey bulky goods retail outlet, formerly used by Harrisons Timber and Hardware, with associated storage areas and car parking. The site is no longer in use in anticipation of its redevelopment. Access to the site is via Canterbury Road and Elizabeth Street.

The site is located in a transitional zone, with institutional uses to the north-east (Canterbury Hospital), mixed commercial/office uses to the east (clothing manufacturers, office, medical centre), light industrial uses to the rear/south, commercial/bulky goods retailing to the west and a car sales lot and low rise residential uses to the north. The outer lying areas are predominantly medium density residential development.

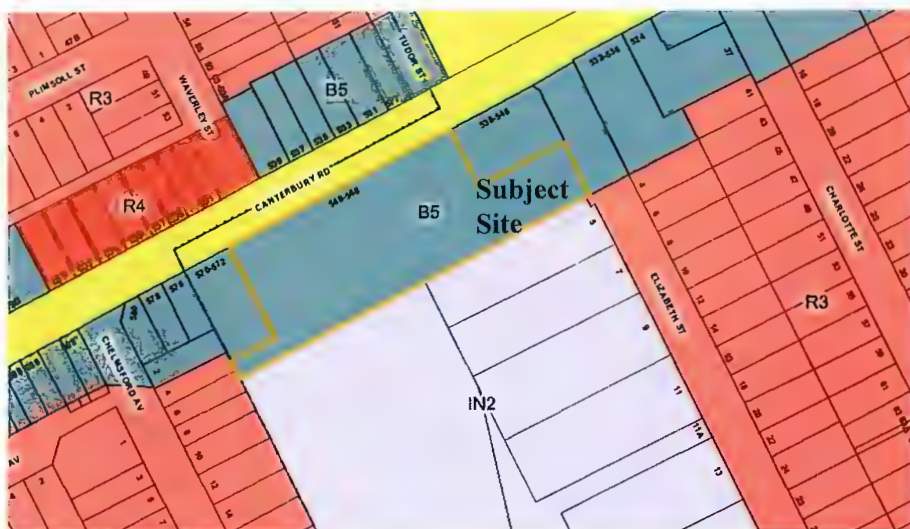


Figure 1. Subject Site



Image 1. Aerial and surrounding development



Image 2. View of site along Canterbury Road – looking west

REPORT



Image 3. Looking North on opposite side of Canterbury Road



Image 4. Canterbury Road frontage



Image 5. Former customer car park and vehicle access from Canterbury Road



Image 6. View of site from Elizabeth Street

BACKGROUND

Original Development Application - DA-509/2013

The JRPP approved DA-509/2013 for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units and associated basement car parking on 2 October 2014, subject to conditions. In detail, the approved development includes the following:

- Demolition of the existing site structures and excavation for basement car parking;
- Construction of three (3) levels of basement parking with four ingress/egress points via a new rear laneway to be constructed along the southern boundary of the site. 402 off-street car parking spaces are proposed comprising 322 residential spaces, 26 retail/ commercial spaces and 54 visitor spaces. In addition, the proposal includes 53 bicycle spaces;
- Basement level parking lots are to be accessed via individual points off a new laneway to be constructed along the southern boundary of the site;
- A loading bay which can accommodate a variety of commercial vehicles up to and including 9.8 metre long rigid vehicles. A reversing bay at the western end of the future rear laneway is also proposed;
- At ground floor level in Buildings A, B, C and D, sixteen (16) non-residential commercial units are proposed along the Canterbury Road frontage;
- The remainder of the development comprises a mix of residential units (92 x 1 bedroom units, 140 x 2 bedroom units and 22 x 3 bedroom units);

REPORT

- A garbage storage area and collection area is provided within the ground level of each building;
- Deep soil areas and landscaping are provided within the central courtyard between Buildings A, B, C and D and around the periphery of Building E; and
- Roof terraces totalling 845m² also enhance common open space provision. Ground level communal open space is proposed at 661m² resulting in a total of 18% of the site area allocated for common open space use.

Section 96(1A) Application to Modify DA-509/2013

A Section 96 (1A) application to amend DA-509/2013 is currently under concurrent assessment by Council. This application seeks to undertake alterations and additions, including:

- An extension to basement level 3 to provide an additional 79 car parking spaces, 4 motorbike spaces and 49 bicycle spaces.
- Renumbering of levels to remove the ground floor reference results in former Level 6 = Level 7 and former Level 7 = Level 8.
- Internal changes to improve functionality of living rooms in Units A03, A07, A08, B03, B07, B08, C03, C07, C08, D03, D07, D08.
- Facade changes to Units A-D01 to introduce a ledge and a joint line to give the building a horizontal emphasis. Louvred screens and hoods were also removed so that the top of the building is more restrained and the overall building has a unified composition.
- Revised finishes schedule that includes polished concrete and metal flat bar balustrades.

A concise list of all proposed modifications are detailed level by level in the Table provided in Section 1 of the Planning Report prepared by ddc urban planning, dated September 2015. Note is also made that the alterations to the basement car park are intended to facilitate the provision of adequate car parking to meet the demand generated by the subject DA (DA-592/2014).

Amendment to CLEP 2012 – Building Heights

Council resolved at its meeting on 31 October 2013 to endorse an amendment to the CLEP 2012, which included adoption of the draft Canterbury Residential Development Strategy. The LEP amendment also included a proposal to increase the building height limits at particular sites within the Canterbury Road Corridor. In this regard, the subject site proposed to increase the height limit from 18m (approximately 5-6 storeys) to 25m (8 storeys).

While the Residential Development Strategy originally recommended increasing the building height limit for the subject site to 21m (7 storeys), Council adopted a 25m height limit. The Amendment to the CLEP 2012 was subsequently placed on public exhibition and at an Extraordinary Meeting of Council on 2 October 2014, Council resolved to adopt the exhibited planning proposal. The Planning Proposal was then sent to the NSW Department of Planning and Environment for a Gateway Determination.

During this process, the RMS raised concerns at the unknown traffic and road safety implications across the Regional Road Network as a result of increased

X ✓
dwelling yields and density on a number of identified sites. In relation to the subject site, the RMS made the following comments:

"Roads and Maritime notes that the planning proposal to increase permissible building height of the subject site has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts off the maximum developable yield of the site being considered and assessed. Traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road should be assessed. Roads and Maritime is likely to require access to be provided from the adjoining local road network for any future development or subdivision of the subject site."

IS ✓
Consequently, Council determined to omit a number of specific properties (including the subject site) from the Planning Proposal to allow resolution of the issues separately, while proceeding with a range of other important amendments to the CLEP 2012. The CLEP 2012 was formally amended in March 2015 and there are no outstanding or active Planning Proposals by Council. *that relates to this particular site, however there is a Council resolution*

STATUTORY CONSIDERATIONS

THE ROAD (Where is it?)
When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
 - State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
 - State Environmental Planning Policy No.55 – Remediation of Land
 - State Environmental Planning Policy (Infrastructure) 2007
 - Canterbury Local Environmental Plan 2012
 - Canterbury Development Control Plan 2012
 - Canterbury Development Contributions Plan 2013.
- to increase the height limit on this site to 25m -*


ASSESSMENT

The development application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 and the following key issues emerge:

• State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

This policy applies to residential flat buildings of three or more storeys and is required to be considered when assessing this application. SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing "good design". Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgment of the development application. This documentation has been submitted.

In addition, SEPP 65 requires the assessment of any DA for residential flat development against ten principles contained in Clauses 9-18 and Council is required to consider the matters contained in the RFDC, pursuant to the provisions of Clause 30 (2) (c) of SEPP 65. While the RFDC has since been replaced by the Apartment Design Guide for new Development Applications, the RFDC is still applicable to this application and has been considered in the assessment of the proposal, as demonstrated in the Table below. This assessment indicates that the proposal is consistent with the Rules of Thumb.

Item	RFDC Rules of Thumb	Proposal (New levels only)	Compliance
Building depth	10m – 18m	12m-16m	Yes
Building separation	<u>5-8 storeys/ up to 25m:</u> <ul style="list-style-type: none"> 18m between habitable rooms/ balconies 13m between habitable rooms/ balconies and non-habitable rooms 9m between non-habitable rooms 	<p>The proposal generally achieves the required building 9m/ 13m/18m separation distances, with the provision of suitable screening devices/ window placement. This is reinforced by appropriate conditions of consent.</p> <p>It is important to note that the southern elevation follows the approved setbacks for levels five (previously level 6) down to the ground floor. The setback and separation distance for the upper floors of the approved development appear to have been approved on the basis of sharing the required separation distances with any likely future development on that land, which is an accepted practice.</p>	Yes with conditions regarding the placement of suitable privacy measures. 
Communal open space	25% to 30% with a 4m minimum dimension	No change to quantum provided as five rooftop areas and four ground level courtyards under DA 502/2013.	Yes
Deep soil zone	At least 25% of Site Area	No change to quantum provided under DA	Yes

REPORT 01

Item	RFDC Rules of Thumb	Proposal (New levels only)	Compliance
		502/2013.	
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter. Reduced to 2 hours in <i>dense urban areas</i> .	The site qualifies as being within a <i>dense urban area</i> and accordingly, needs only to achieve at least 70% of units with 2 or more hours of solar access.	Yes
	No more than 10% single aspect south facing apartments.	A total of 35 of the 254 units (13%) approved under DA 502/2013 were single aspect and south-facing. The current proposal shows that 12 of the proposed 70 units (17%) will be single aspect and south-facing, resulting 47 units (or 14.5%) in the final development.	No however, due to the restrictions imposed by the approved floorplate and orientation of the approved building, the variation is relatively minor in its context.
Natural ventilation	At least 60% of apartments are naturally cross ventilated	60% of all units are cross-ventilated.	Yes
	25% of kitchens should have access to natural ventilation.	Design of each floor of the building follows that of the approved floors below. All kitchens are less than 8m from a window with a significant proportion of units being corner units or cross-through units.	Yes
Ceiling Height	Habitable rooms – 2.7m Non-habitable – 2.4m 2 storey units – 2.7m for main living area; 2.4m for 50% of upper floor In Mixed Use areas – 3.3m for ground and level 1	Habitable rooms – 2.7m Non-habitable – 2.4m	Yes

Item	RFDC Rules of Thumb	Proposal (New levels only)	Compliance																																																									
Apartment size	<table><tr><th>Apartment Type</th><th>Area</th><th>m²</th></tr><tr><td>03.01 Studio</td><td>Internal Area</td><td>33.5m²</td></tr><tr><td></td><td>External Area</td><td>6m²</td></tr><tr><td>03.02 One bedroom, cross through</td><td>Internal Area</td><td>50m²</td></tr><tr><td></td><td>External Area</td><td>8m²</td></tr><tr><td>03.03 One bedroom masonry/clift</td><td>Internal Area</td><td>60m²</td></tr><tr><td></td><td>External Area</td><td>9.4m²</td></tr><tr><td>03.04 One bedroom studio aspect</td><td>Internal Area</td><td>60.4m²</td></tr><tr><td></td><td>External Area</td><td>10m²</td></tr><tr><td>03.05 Two bedroom cross</td><td>Internal Area</td><td>80m²</td></tr><tr><td></td><td>External Area</td><td>15m²</td></tr><tr><td>03.06 Two bedroom cross through</td><td>Internal Area</td><td>80m²</td></tr><tr><td></td><td>External Area</td><td>25m²</td></tr><tr><td>03.07 Two bedroom cross-over</td><td>Internal Area</td><td>90m²</td></tr><tr><td></td><td>External Area</td><td>15m²</td></tr><tr><td>03.08 Two bedroom corner with study</td><td>Internal Area</td><td>121m²</td></tr><tr><td></td><td>External Area</td><td>33m²</td></tr><tr><td>03.09 Three Bedroom</td><td>Internal Area</td><td>126m²</td></tr><tr><td></td><td>External Area</td><td>24m²</td></tr></table>	Apartment Type	Area	m ²	03.01 Studio	Internal Area	33.5m ²		External Area	6m ²	03.02 One bedroom, cross through	Internal Area	50m ²		External Area	8m ²	03.03 One bedroom masonry/clift	Internal Area	60m ²		External Area	9.4m ²	03.04 One bedroom studio aspect	Internal Area	60.4m ²		External Area	10m ²	03.05 Two bedroom cross	Internal Area	80m ²		External Area	15m ²	03.06 Two bedroom cross through	Internal Area	80m ²		External Area	25m ²	03.07 Two bedroom cross-over	Internal Area	90m ²		External Area	15m ²	03.08 Two bedroom corner with study	Internal Area	121m ²		External Area	33m ²	03.09 Three Bedroom	Internal Area	126m ²		External Area	24m ²	All units satisfy the minimum apartment sizes specified in the Rule of Thumb in the RFDC.	Yes
Apartment Type	Area	m ²																																																										
03.01 Studio	Internal Area	33.5m ²																																																										
	External Area	6m ²																																																										
03.02 One bedroom, cross through	Internal Area	50m ²																																																										
	External Area	8m ²																																																										
03.03 One bedroom masonry/clift	Internal Area	60m ²																																																										
	External Area	9.4m ²																																																										
03.04 One bedroom studio aspect	Internal Area	60.4m ²																																																										
	External Area	10m ²																																																										
03.05 Two bedroom cross	Internal Area	80m ²																																																										
	External Area	15m ²																																																										
03.06 Two bedroom cross through	Internal Area	80m ²																																																										
	External Area	25m ²																																																										
03.07 Two bedroom cross-over	Internal Area	90m ²																																																										
	External Area	15m ²																																																										
03.08 Two bedroom corner with study	Internal Area	121m ²																																																										
	External Area	33m ²																																																										
03.09 Three Bedroom	Internal Area	126m ²																																																										
	External Area	24m ²																																																										
Apartment environmental performance	Single aspect apartments limited to a depth of 8m from a window	All single aspect apartments are designed to have rooms with doors no more than 8m from a window. Internal bathrooms which are mechanically ventilated and artificially lit of some apartments have their doorways within 8m of a window.	Yes																																																									
	The back of a kitchen to be no more than 8m from a window.	No kitchen is more than 8m from a window.	Yes																																																									
	The width of cross-over or cross-through apartments over 15m deep should be 4m or more	All cross through apartments are of varying widths which equates to average apartment width of 6m.	Yes																																																									
Private open space and balconies	Balconies to be at least 2m deep	Minimum dimension of 2m achieved.	Yes																																																									
Common circulation and spaces	Maximum of eight (8) apartments off a circulation core on a single level.	A maximum of 8 units per core.	Yes																																																									
Storage	As well as kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at: : studio units = 6m ³ : 1 BR units = 8m ³ : 2 BR units = 8m ³	All units are provided with internal and basement storage as per the RFDC.	Yes																																																									

REPORT 01

Item	RFDC Rules of Thumb	Proposal (New levels only)	Compliance
	<ul style="list-style-type: none"> 3 BR units = 10 m² 		
Pedestrian access	Barrier free access to at least 20% of units	All units are accessible via lifts and ramps.	Yes
Waste management plan	Waste Management Plan must be provided	A Waste Management Plan was provided with the original DA submission.	Yes

Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply and properties on Canterbury Road more generally. As such, the proposed development, while contemporary in design, is expected to complement and positively contribute with existing and likely future development in the locality.

Scale

The scale of the proposed development is determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within CDCP 2012. Further, Council's policy intentions are clearly stated in the ~~Draft CLEP 2012~~ which is currently waiting in that finalisation in which a height limit of 25m was adopted by Council for the site. ~~Council Resolution dated 9 Oct (4)~~ ✓

The proposal for the most part satisfies the height controls and building setbacks and separation controls applying to the land, however the proposal represents a breach of the CLEP 2012 height controls. This is not necessarily fatal to the application and detailed consideration of this aspect of the proposal is contained further below. Notwithstanding this, the development is consistent with the scale of development identified for the future character of the locality. ✓

Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. All dwellings are reasonable in dimension and have balconies and/or courtyards that provide reasonably good amenity and are accessible from living areas. ✓

Density

As noted above the scale of the proposed development is clearly determined by the height controls contained within the CLEP 2012, ~~draft~~ CLEP 2012 and the building envelope controls contained within the CDCP 2012. No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is ✓

consistent with the type of development contemplated by the CDCP 2012 controls in a locality that is expected to undergo transition into the future.

Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

Landscape

The proposed development provides a number of good quality and functional communal open space areas including courtyards and roof terraces, in excess of the minimum requirements of the CDCP 2012 and the RFDC. Landscape treatments for the site will add to the general amenity offered to future residents and satisfy the requirements of Part 6.6 of CDCP 2012. It is also noted that the development provides good amenity for future occupants with each unit being provided with adequate and functional balcony/terrace spaces.

Amenity

The proposed development will provide good levels of amenity for future occupants of the development, with good solar access, natural ventilation and privacy. In this regard, the proposal is generally consistent with the requirements of the RFDC. The proposed units contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

The application is also accompanied by a peer reviewed-Design Verification Statement which states a number of internal changes to the units on the lower levels were undertaken specifically to improve internal amenity:

"The proposed amendments to the internal corners of buildings above level 5 by replanning units to relocate balconies and increase separation between private open spaces improves the visual and acoustic privacy between dwellings.

All lift lobbies, except building E have access to natural light and ventilation which is appropriate with approximately 10 units off each corridor. While Building E would benefit from access to natural light, this building has 7 units per corridor which satisfies the RFDC.

...

The removal of projecting forms to the north-west of buildings A-D and north-east of buildings B + D increases building separation and increases the amount of sunlight to units, as well as private and communal open spaces, while reducing the amount of blank walls.

At levels 4-7 of buildings A-D, built forms to the west have been removed and setback to maintain a consistent setback around the perimeter. This increases the amount of natural light to the units along the western facade."

The improvement in the overall levels of internal amenity is supported, even though the amenity anticipated and accepted by both the JRPP and Council on DA-509/2013 was deemed to be acceptable and compliant with the RFDC,

Safety and Security

Satisfactory provision for security and resident/ public safety is provided. The proposal does not alter the previous findings for DA-509/2013 with respect to safety and security.

Social Dimensions and Housing Affordability

The amended proposal does not alter the previous findings for DA-509/2013 with respect to the potential social impacts, housing mix or affordability. The proposal (as amended) will provide a variety of apartment layouts and an appropriate housing mix to complement the housing available within the locality and meet the anticipated future demands. ✓

Aesthetics

The peer reviewed-Design Verification Statement confirms that the proposed development achieves the design quality principles contained in SEPP 65. The overall aesthetic of the building is suitably designed and is expected to positively contribute to the desired future character of the locality.

It is noted that additional design features have been added to improve the overall design, as follows:

"The introduction of polished concrete and metal flat bar balustrades are acceptable and provide fine grain detail to the elevation and assist in reducing the amount of rendered wall surfaces.

The northern elevation has been amended to create a unified composition which is supported. The additional stepping of forms at level 2, 4, 6 + 8 has been simplified by creating an asymmetrical top to the building with a strong horizontal emphasis, by introducing a ledge and removing screens." ✓

The proposal is generally consistent with the provisions of SEPP 65 and the RFDC prepared by the Department of Planning and Infrastructure.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**

A BASIX Certificate accompanies the development application and lists a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.

- **State Environmental Planning Policy No.55 – Remediation of Land**
Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Council previously considered that the site held a low risk of contamination in its assessment of DA 509/2013. The proposed development does not alter the conclusions previously reached in respect of the SEPP.
- **State Environmental Planning Policy (Infrastructure) 2007**
State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires for the purposes of a residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

DA-509/2013 was accompanied by an Acoustic Assessment prepared which details various measures that were incorporated in the original conditions of development consent. These measures are to be incorporated into the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

you say 7A earlier

In terms of Clause 104 of the SEPP, the site is located on Canterbury Road which is a Classified Road. Having regard to the Table to Schedule 3 of the SEPP, the application proposes 70 dwellings and no additional parking spaces (which are provided via the concurrent Section 96(1A) application). Accordingly, the proposal does not require a referral under this clause to the RMS, based on the size or capacity triggers contained in Columns 2 or 3 of the Table to Schedule 3.

The proposed development therefore meets the requirements of State Environmental Planning Policy (Infrastructure) 2007. Where required, relevant conditions will need to be imposed on any development consent issued.

- **Canterbury Local Environmental Plan 2012**
The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use

development. The proposal involves retaining the approved commercial uses with an additional two levels of residential apartments and modifications to the residential units on other levels, thus maintaining the approved mixed use definition and use. A mixed use development is permissible in the subject zone.

The proposal compares to the further relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development	The proposed development is permissible with development consent	Yes
Floor Space Ratio (FSR)	No FSR applies	No FSR controls apply to the B5 zone under CLEP 2012, however the application will realise an FSR of approximately 2.96:1.	N/A
Building Height	18m in Zone B5, however will be increased to 25m upon gazettal of the Draft CLEP 2012.	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – Refer to comments below.

The proposal seeks a variation to Clause 4.3(2) of CLEP 2012 relating to the height of buildings. The applicant has submitted a statement in accordance with Clause 4.6 of CLEP 2012.

Current Context to Clause 4.6 Submissions

In deciding whether a development standard, such as building height, should be modified, it is important to understand the current context surrounding Clause 4.6 submissions. The most recent and relevant matter before the Land and Environment Court has been that of *Four2Five Pty Ltd v Ashfield Council*. A summary of this matter is provided below.

The issues arising out of *Four2Five Pty Ltd v Ashfield Council* involved the following appeals and judgements:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*'Four2Five No 1'*), where the appeal against the refusal of consent was upheld, subject to conditions;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*'Four2Five No 2'*), where an appeal was made pursuant to S. 56A of the Land and Environment Court Act 1979 on a point of law with respect to one of the deferred commencement conditions imposed by the Commissioner. This appeal was dismissed; and
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*'Four2Five No 3'*) where leave was sought to appeal the judgment in *'Four2Five No 2'* and ultimately dismissed.

In *Four2Five No 1*, the Court held that the proposed development in that case (which sought a variation to the maximum height standard in the B4 Zone) was consistent with the zone objectives and also in the public interest because it was consistent with the objectives of the standard. However, the Court held that consideration also needs to be given to whether there are *sufficient* environmental planning grounds to justify contravening the development standard.

In the appeal, the Applicant's written Clause 4.6 submission put forward the proposition that the environmental planning grounds justifying contravening the standard were the benefits arising from the additional housing and the employment opportunities that would be delivered by the development having regard to its close proximity to railways, schools, the Ashfield town centre, etc.

The Court accepted that the proposed development would provide those public benefits but noted that any development for a mixed use in the B4 zoned land would provide those same benefits. The Court therefore held in this respect:

- That the grounds advanced by the Applicant in its Clause 4.6 submission are not particular only to the proposed development site; and
- That to accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land which is an objective of the Environmental Planning and Assessment Act 1979 (s5(a)(ii)) and which it can be assumed is within the scope of the "environmental planning grounds" referred to in clause 4.6(4)(a)(i) of the relevant Local Environmental Plan (LEP).

The Court subsequently upheld the appeal, granting a deferred commencement consent. The deferred commencement consent imposed conditions that (amongst other things), required the deletion of some of the units, thereby enforcing the height limit.

In *Four2Five No 2*, the Applicant sought to have the deferred commencement conditions relating to the deletion of the units removed, arguing that the Commissioner in *Four2Five No 1* had made an error of law in terms of the tests to be satisfied in a Clause 4.6 submission. The Court however upheld the Commissioner's findings with respect to the Clause 4.6 submission and dismissed the appeal.

In *Four2Five No 3*, the Applicant sought leave to appeal against the Judgement in *Four2Five No 2*, citing three grounds for appeal on a question of law. The Court refused leave to appeal, confirming the procedure and determination made by the Commissioner in *Four2Five No 1* to be correct.

The Variation Request

Clause 4.6 of the CLEP 2012 applies to this development as follows:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Subclause (4) requires the Consent Authority to withhold development consent unless it is satisfied that:

- “(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.”*

In attempting to demonstrate compliance with Subclauses (3) and (4), the applicant’s written submission provides the following arguments:

“To ensure a “better outcome” for the site it is proposed to make several changes to the six storey approved building on the site. In general terms these changes increase the east-west building separations to reduce the overall building form, improve solar access into east and west facing units and further enhance privacy amenity within the site. Building bulk is also reduced at the Canterbury Road elevation by narrowing the widths of the building forms. The quality of certain finishes have also been lifted to bring an overall improvement to the appearance of the development.

Small areas at the ‘internal’ corners of the building have been slightly increased in footprint to increase the size of these units and also to improve privacy between balconies at this location. These areas are well noted on the amended plans.”

The applicant has also provided a table identifying a range of amendments to the proposal and the correlating benefits, such as reduced building bulk, improved public domain and improved solar access. Additionally, the applicant states that the *“...increase in building separation will result in an improvement in solar access to some units and better privacy between units. This is a benefit and results in a better planning outcome than provided by the existing approval.”*

The applicant's submission also provides the following arguments to justify the variation as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The applicant states that the standard is unnecessary in this instance as:

- *The applicant is proposing numerous design changes to the already-approved six storey development on the site. Specifically these include a reduction in floor area to increase building separation distances, improve the elegance of the overall design and provide for higher quality finishes to the building (these proposed amendments are the subject of a Section 96 application to the original consent).*
- *Taller buildings up to 25 metres are desirable for this section of Canterbury Road in order to more strongly define the urban structure of Canterbury, while at the same time complementing the taller buildings associated with institutional uses to the north-east such as Canterbury Hospital.*
- *The merits of defining the immediate locality by well-defined buildings and a taller built form have been supported by Council in its recent urban studies. In particular, that planning direction is advocated by the Canterbury Residential Development Strategy which underlies the recent planning proposal to amend Canterbury LEP to increase permissible heights on the site.*
- *Design features including the rear laneway as shown in the DA drawings, will mitigate impacts of the development.*

The applicant also submits that Council has already deemed the approved development satisfied the objectives of the zone and that the additional residential floors and an improved building quality will not compromise the attainment of these objectives.

- (b) that there are sufficient environmental planning grounds to justify contravening the development standard

The applicant provides the following as environmental planning grounds to justify contravening the development standard:

- *The development is generally within the 25m building height control as endorsed by Council at its meeting of 2 October 2014, with the exception of minor variations due to topography and the rooftop elements (which can be readily approved under Clause 5.6 of the CLEP 2012);*
- *The proposed bulk and scale (as amended) is compatible with the future desired character of neighbouring sites along Canterbury Road and supports the mixed use pedestrian oriented centre along this transport corridor;*
- *The proposed development is compatible surrounding land uses to the rear provides an appropriate height and land use transition, with the introduction of the rear laneway providing a suitable transition between these zones; and*

- The departure from the maximum building height will not result in any significant adverse amenity impacts such as overshadowing, privacy impacts or any significant view loss to the public domain or surrounding properties above that which is otherwise permissible under the existing controls.
- The context within which this proposal is made is a growing international city. Sydney will experience significant property growth in future decades and key sites in key suburbs must be developed appropriately and to their potential. As this takes place, additional services will be provided and changes to transport infrastructure will take place. This site is appropriate for this development and the traffic increases from the additional units is very modest.

In addition to providing a scheme which will sit well within Council's vision for this part of Canterbury Road height and density, it will provide a welcome contribution to housing needs in the area and a better street system. Sydney is in crisis and affordability is a massive issue at the heart of a housing boom.

Having regard to the above matters and Clause 4.6(3), the applicant's written request has satisfactorily addressed the matters required to be demonstrated by sub-clause (3). It is also considered that the proposed development is in the public interest and is in keeping with the objectives of 'Clause 4.3 Height of Buildings' of CLEP 2012 as the bulk of the development and its relationship with neighbouring properties and the streetscape is acceptable. The proposed development is also in keeping with the objectives of the relevant zone.

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003. In the granting of concurrence and having due regard to the provisions of Clause 4.6(5), the Secretary has determined that the use of Clause 4.6 to vary a development standard in the current context, will not be a matter of State or regional planning significance; that the public benefit of maintaining the standard does not outweigh its variation; and that there are no other relevant matters.

Having regard to the above commentary, the preceding matters arising from *Four2Five Pty Ltd vs Ashfield Council*, and Council's previous intentions to increase the height limit for the site to 25m, it is considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 and vary the height standard to permit the proposed development.

Clause 5.10 of CLEP 2012

The subject site is within the vicinity of Canterbury Hospital which is listed as a Heritage item under Schedule 5 and identified as 146 on the Heritage Map (Canterbury LEP 2012). Clause 5.10 of CLEP 2012 requires consideration and assessment of the extent to which the proposed development may affect the heritage significance of the subject heritage item. In this regard, the development is contained wholly within the site and will not have a material impact on the adjacent Heritage item. The proposal is consistent with the objectives of Clause 5.10 of CLEP 2012 in

that the heritage significance of the item is conserved as is the environmental heritage of Canterbury.

- Canterbury Development Control Plan 2012**
 An assessment of the proposal against the requirements of Part 3 Business Centres of Canterbury Development Control Plan 2012 (CDCP) is detailed below.

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	This matter was considered in the assessment of DA 509/2013. The proposal will have no additional impact on 538-546 Canterbury Road.	Yes
Building Height	18 m (shown on CLEP 2012 Map)	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – refer to comments under CLEP 2012 and assessment of the Cl. 4.6 submission.
	Floor to ceiling height in commercial min. 3.3m	N/A	N/A
	Floor to ceiling height in residential min. 2.7m	2.7 metres	Yes
	Floor to ceiling height in car parking min. 2.8m	N/A	N/A
Building Depth	Commercial component 10-24 metres	N/A	N/A
	In general, an apartment building depth of 10-18 metres is appropriate	All apartments have a depth of less than 18 metres	Yes
Building Setbacks	1-4 storeys Minimum setback of 3 m from front street boundary • No controls for secondary frontages	N/A	N/A
	5 th storey – an additional 5m setback is required • No controls for secondary frontages	Upper floors satisfy the SEPP 65 setback requirements. The existing approved building made minor variations to these setback provisions. The additional two levels proposed in this application mirror what has been approved on the top-most level already.	Yes
Building Separation (as per SEPP 65)	6m up to 3 storeys 12m 4 th storey 18m 5 th storey	Refer to SEPP 65 assessment	Yes

Be more specific which of floors?

7

I thought the upper 2 levels had greater setbacks
(i.e. 12m)
from the street?

Standard	Requirement	Proposed	Complies
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	N/A	N/A
Design Controls	Clearly identifiable entries, Provide main common entry.	N/A	N/A
	Habitable room window to face communal areas	Habitable windows facing communal areas and perimeter of the development	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Facades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	Facade is in accordance with the articulation requirements, as outlined in this table.	Yes
Shopfront	Shop premises to present a suitable streetscape appearance and allowing adequate security	N/A	N/A
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	N/A	N/A
	Width of 3 metres	N/A	N/A
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the facade, including the quality and durability of its materials, should be emphasised.	The facade is of a high architectural standard. Materials used are of a high quality and are durable.	Yes
	The 'facade' should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 m with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Vertical emphasis is provided with appropriate modulation through the use of varying materials and external finishes.	Yes
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road	Yes

Standard	Requirement	Proposed	Complies
	Balconies should be used in moderation and be integrated into the overall composition of the facade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the facade. There is adequate variety in the balconies configuration between the lower and upper levels of the development.	Yes
	The majority of windows shall be vertically rectangular	Majority of windows are vertically rectangular	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	Roof structure takes advantage of the northerly aspect to the front of the site to provide maximum solar access with eaves provided at appropriate locations for shading purposes	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Adequately screened	Yes
	Discretely locate mailboxes in front of property	N/A	N/A

Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design has adequately addressed visual privacy issue through window placements and sufficient setbacks with the adjoining property. Floor layouts from approved units below have generally been adopted.	Yes
Private Open Space, Balconies, terraces & Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space.	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for 2 & 3 bedroom dwellings with minimum depth of 2 metres	Balconies provide the minimum private open space requirements with adequate depth. Condition to be imposed requiring all units to comply with this requirement.	Yes
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies.	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room.	Yes
	Primary balconies to have minimum depth of 2 m and be functional in dimensions	Minimum depth of 2 m and functional in design.	Yes /
	Design and detail balconies in response to local climate	Balconies have been designed where achievable to have northern orientation to maximise solar access.	Yes
	Storage: 6m ² / 1 bedroom unit 8m ² / 2 bedroom unit 10m ² / 3 bedroom unit	To be imposed as a condition of consent.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 827.5sqm)	No change to ground floor areas. Rooftop spaces duplicated from DA 502/2013.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes
Housing Choice	10% minimum of each bedroom configuration	20 x 1 Bed = 28.6% 40 x 2 Bed = 57.1% 10 x 3 Bed = 14.3%	Yes
	10% of dwellings are adaptable	10% of the units are accessible and adaptable apartments in accordance with the DCP provisions.	Yes

PART 6 – GENERAL CONTROLS

The proposed development compares to Part 6 of CDCP 2012 as follows:

Part 6.1 Access and Mobility

The Disability Access Committee provided its comments in relation to the original development that was the subject of DA-509/2013. The Committee raised no objection to the development proceeding subject to the imposition of conditions of consent, and requirement that the development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code. The nature of the proposal is such that it does not raise any issues not already foreseen by the Committee.

Part 6.2 Climate and Resource Efficiency**Mixed Use Development**

Part 6.2.6 and 6.2.7 provide requirements governing solar access and natural ventilation. These standards are generally higher than those contained within SEPP 65. The proposal satisfies the requirements for solar access and natural ventilation and given that the SEPP overrides the DCP control, the proposal is considered acceptable in this instance.

Part 6.3 Crime Prevention Through Environmental Design

The two additional floors will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

Residential Development

- The upper units in the proposed mixed use development contain residential units that address the street;
- The parking area does not dominate the development as it is provided at basement level;
- The proposal provides clearly delineated access points;
- Secure basement access and access to the dwellings is proposed;
- Each communal open space provides different features in terms of use and landscaping to give a sense of ownership; and
- The access arrangement is appropriate to service the number of units within each block.

Part 6.4 Development Engineering, Flood and Stormwater

The proposal will connect into the approved stormwater infrastructure proposed and approved under DA 502/2013. No objections have been raised by Council's Development Engineer, subject to conditions being attached to any consent granted.

Part 6.6 Landscaping & Part 6.7 Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by Council's Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being imposed on any consent issued.

Part 6.8 Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

Requirement	Proposal	Complies
Residential Units: 20 x 1 BR (@1 space/ unit) 46 x 2 BR (@1.2 spaces/ unit each, with the 0.2 as common) 4 x 3 BR (@ 2 spaces/ unit) = (20+46+8) = 74 +9.2 common spaces = 83.2 spaces (83)	Nil but refer to S.96(1A) to DA 509/2013	No. <i>See Comment (1)</i> ✓
Visitor – 14 spaces (@one 1 space / 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. <i>See Comment (1)</i> ✓
One car wash bay	As part of total development	Yes
Resident bicycle spaces – 14 spaces (@1 space/ 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. <i>See Comment (1)</i> ✓
Visitor bicycle spaces – 7 spaces (@1 space/10 units)	Nil but refer to S.96(1A) to DA 509/2013	No. <i>See Comment (1)</i> ✓

The details provided by the applicant of the proposed car parking allocations across DA 509/2013, the subsequent Section 96(1A) application and this DA appears confusing. Therefore, in order to understand the overall level of compliance when seen as a completed development, the following table has been prepared.

Parking Summary: DA 502/ 2013 modified by S96 (1A) + DA 592/ 2014		
Requirement	Proposal	Complies
Residential: Resident Parking = 322+83=405	322+79 = 401	No – 4 spaces shortfall <i>See Comment (1)</i>
Visitor parking (resident) = 51 + 14 =65	54 (shortfall of 12 spaces)	No – 11 spaces shortfall <i>if</i>
Total Residential = 405+65 = 470	401+54 = 455	No – 15 spaces shortfall <i>if</i>
Commercial: Commercial parking = 26	26	Yes
Ancillary spaces (wash bay + courier) = 1+1=2	2	Yes
TOTAL PARKING ALL USES = 470+26+2 =498	483	No – 15 spaces shortfall <i>if</i>
Bicycle spaces: Resident = 51+14 = 65 Resident visitor = 25+7 = 32 Commercial = 3 Commercial visitor = 2 Total = 65+32+3+2 =102	51+49=100	No – 2 spaces shortfall <i>if</i>

Note: Figures in both tables are based on the unit mix derived from the submitted plans due to inconsistencies in the supporting documentation.

Despite the shortfall in car and bicycle spaces provided, the proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Appropriate conditions have been included in the consent to ensure the appropriate provision and allocation of parking spaces. This will require the submission of new drawings prior to the issue of the construction certificate, demonstrating how the additional parking is to be provided.

Part 6.9 Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant. However, concerns were raised in regard to the size and design of the residential and commercial waste bin holding areas. These concerns have been included and imposed as conditions of consent, ensuring that the on-going and operational waste management procedures of the development is satisfactory and is in accordance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves 28 x 1 bedroom dwellings, 38 x 2 bedroom dwellings and 4x3 bedroom dwellings to the site which attracts a contribution of **\$3,067,128.82**. This contribution is subject to indexing.

ADDITIONAL CONSIDERATIONS

- **Acoustics**

Given the location of the site located along a busy road, the application has been accompanied by an Acoustic Assessment prepared by Acoustic Logic dated 20 June 2013 which details various measures that are to be incorporated in the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

- **National Construction Code**

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed; including that full compliance with the National Construction Code is to be achieved.

EXTERNAL REFERRALS

- **Roads & Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

Note: Figures in both tables are based on the unit mix derived from the submitted plans due to inconsistencies in the supporting documentation.

(1) Carpark & bicycle storage

Despite the shortfall in car and bicycle spaces provided, the proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Appropriate conditions have been included in the consent to ensure the appropriate provision and allocation of parking spaces. This will require the submission of new drawings prior to the issue of the construction certificate, demonstrating how the additional parking is to be provided.

Part 6.9 Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant. However, concerns were raised in regard to the size and design of the residential and commercial waste bin holding areas. These concerns have been included and imposed as conditions of consent, ensuring that the on-going and operational waste management procedures of the development is satisfactory and is in accordance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves 28 x 1 bedroom dwellings, 38 x 2 bedroom dwellings and 4 x 3 bedroom dwellings to the site which attracts a contribution of \$3,067,128.82. This contribution is subject to indexing.

ADDITIONAL CONSIDERATIONS

- **Acoustics**

Given the location of the site located along a busy road, the application has been accompanied by an Acoustic Assessment prepared by Acoustic Logic dated 20 June 2013 which details various measures that are to be incorporated in the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

- **National Construction Code**

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed; including that full compliance with the National Construction Code is to be achieved.

EXTERNAL REFERRALS

- **Roads & Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

NOTIFICATION

The development application was advertised in the local newspaper and notified to adjoining and nearby property owners between 20 October 2015 and 18 November 2015 in accordance with Part 7 – Notification of Development Applications of Canterbury Development Control Plan 2012. Council received three (3) submissions objecting to the proposal. The submissions raised the following issues of concern, which are discussed below:

- 1) **The area is already overdeveloped and traffic is at near gridlock levels. The proposal is not in the best interests of the local community.**

Comment

The proposed development, in terms of bulk and scale, is different to existing development in the locality, nevertheless, it is consistent with Council's adopted new planning controls in the CLEP 2012 and the CDCP 2012. ~~Although the increase in height for this site was excluded from the last LEP amendment, it demonstrates a clear intention by Council to increase the height and development potential of buildings along the Canterbury Road Corridor in order to see viable redevelopment occur. The proposed development also represents the future character contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.~~

there ✓
V5

expand how it demonstrates this?

With respect to traffic movements, it is acknowledged that a development of this scale will result in some increased traffic movements in the immediate locality. The Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd also includes a SIDRA analysis of the operational network performance of the surrounding roads and makes the following comments with respect to this issue:

"Accordingly, it is likely that the proposed development will result in an increase in the traffic generation potential the site of approximately 20 vph ..."

"That projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity."

"The results of the SIDRA analysis of the Canterbury Road & Elizabeth Street intersection are summarised on Table 3.1 below, revealing that:

- *under the projected future traffic demands expected to be generated by the previously approved development proposal, the Canterbury Road & Elizabeth Street intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of 6 seconds/vehicle*
- *under the projected future traffic demands expected to be generated by the new revised development proposal, the Canterbury Road & Elizabeth Street intersection is expected to continue to operate at Level of Service "A", with increases in average vehicle delays of less than 1 second/vehicle.*

Insert comment / Is it satisfactory?

In the circumstances, it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity."

- i) **The Draft LEP Amendment has not yet been gazetted and the development is contrary to the Canterbury Road Masterplan which envisaged higher buildings at major intersections and lower buildings between nodes with a maximum height set at 18m.**

Comment

As discussed above, the Draft LEP, which (amongst other things) sought to increase the maximum height from 18m to 25m was gazetted in March 2015, excluding the proposed height limit for this site and others in order to progress the other housekeeping amendments. This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor. It is also noted that despite the RMS expressing these concerns and requesting any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road, Council is not automatically precluded from assessing the individual merits of a proposal.

The proposal is consistent with both Council's stated policy intent and previous resolutions to pursue increased densities along the Canterbury Road Corridor, and SEPP 65 as assessed above, and the Clause 4.6 submission has demonstrated that the development satisfies the relevant statutory planning matters.

The Canterbury Road Master Plan, while it has informed the controls in the CDCP 2012, is not in itself a statutory document and has been superseded by the Residential Development Strategy. The Master Plan does advocate higher intensity mixed use development at key nodes or key centres/ villages, however a node is not synonymous with a street intersection. In the context of the Master Plan, the site lies within the Hospital Precinct, however there are no specific provisions limiting the height of development on the site.

- ii) **Clause 4.6 is only for relatively minor outcomes, while the proposal represents a significant exceedance and does not create any public benefit.**

Comment

Clause 4.6 is not designed to ensure only "minor" variations to development standards and does not contain any language that implies a numerical limitation must be applied in the consideration of a variation to a development standard. This is supported by the NSW Department of Planning and Infrastructure's publication "Varying development standards: A Guide" (August 2011) which likewise does not state or imply numerical limitations should be adopted. Further, there is a substantial body of case law in the NSW Land and Environment Court, including *Panarea Investments Pty Ltd 23 v Manly Council* [2015] NSWLEC 1026 which establish that there is no requirement that the variation be only "minor".

*Does
our own
Traffic
Engineer
have to
issue?*

*Getting
feedback
re overall
study
being
done. Below
cant. 1-4.*



The applicant has also submitted a written submission in accordance with Clause 4.6 of CLEP 2012 addressing the proposed height variation. Having reviewed the Clause 4.6 submission against the relevant statutory matters that must be considered in the determination of this variation, it is considered that the applicant has adequately demonstrated that:

- i) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- ii) there are sufficient environmental planning grounds to justify contravening the development standard; and
- iii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 4.6 does require an applicant to prove that a proposal creates a public benefit. The concept of "public benefit" has evolved out of the judgment of the Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 where the Commissioner stated that a development must demonstrate what the environmental planning grounds for a variation were that were particular to the site in question. This has been demonstrated in the applicant's submission in this instance.

- iii) **The development will be an ugly prominent mass with ugly balustrades that will impact on privacy.**

Comment

The additional floors, accompanied by the increased setbacks to the side boundaries under the Section 96 (1A) application currently under assessment by Council, will not result in any loss of privacy to adjoining properties. Likewise, the improved finishes and materials as proposed under the Section 96 (1A) application, will result in a development that is consistent with the desired future character with sufficient modulation, visual interest and design features.

- iv) **The proposal does not provide open space suitable as children's play areas where they can kick a ball.**

Comment

The proposal satisfies the requirements in terms of quantum and quality of common open space areas contained in the RFDC and the CDCP 2012, providing a range of recreational experiences and facilities.

- v) **The proposal does not contemplate the residential potential for the pocket of industrial land to the south, known as the Harp Street Site and will restrict the feasible development of this land for residential purposes.**

Comment

The proposal is for an additional two floors on an approved mixed use building. The approved building limits the ability to modify the proposed development any

further than it has and the consideration of amenity impacts is appropriate to the land use activities currently occurring on the adjoining industrial land.

While foreshadowed, Council has not received any applications seeking to rezone or redevelop the adjoining Harp Street industrial area. This area was specifically excluded from Council's Residential Strategy and the Canterbury Road Master Plan given the historical use as a quarry and associated poor subsoil conditions, with the report to the Extraordinary Meeting of Council on 31 October 2013 noting that the Harp Street site has limited land use potential. The proposal is deemed to have shown due regard for the potential of the Harp Street site, given its current use and zoning. It should be noted that there are no guarantees that any proposal to redevelop this land will eventuate and no statutory obligation to consider hypothetical development outcomes that are not consistent with a site's zoning. ✓

- vi) **Shadow diagrams were not available for viewing through the notification period and it was not possible to determine the potential shadow impact.**

Comment

The shadow diagrams submitted with both DA-502/2013 and DA-592/2014 have both been considered in this assessment. Although the objector's planning consultant may not have viewed the shadow diagrams, this does not prevent Council from undertaking an assessment and forming an opinion on the level of impact. *assess and form opinion*

In terms of the additional impact on adjoining residential properties, the proposal will not have any significant adverse impact on solar access, with the dwellings along the south eastern side of Chelmsford Avenue and north eastern side of Elizabeth Street still achieving at least 3 hours solar access during midwinter.

The bulk of the shadow cast by the additional floors will fall over the adjoining industrial land at 11-13 Harp Street. Neither SEPP 65 nor the CDCP 2012 contain any solar access standards for industrial land. ✓

- vii) **The Clause 4.6 submission is being used inappropriately to permit incremental changes to the height of the development, which was the focus of the ruling in *Winten Property Group v North Sydney Council* (2001) NSWLEC 46.**

Comment

In the case of *Winten Property Group v North Sydney Council* (2001) NSWLEC 46, the Court had determined the applicant's repeated applications to incrementally increase the height had reached the point where the development was no longer deemed (in the eyes of the Court) to be the same as what had originally been approved. The case law has been taken out of context and the implications made by the objector's planning consultant are not applicable. ^ *Expand say? why.*

- viii) **The proposal does not have adequate setbacks from the rear laneway to ensure privacy to future residential development on 11-13 Harp Street.**

Comment

The JRPP considered the separation distances and setbacks of the proposal in its approval of DA-502/2013 and found the original development – including the separation provided by the laneway to be suitable, resulting in the approval of that application. The proposal satisfies the setback and separation distance criteria and objectives as contained within both the RFDC and the CDCP 2012. ✓

- ix) **The proposal does not demonstrate any tangible public benefit and the proposal should provide a pedestrian link between Harp Street and Canterbury Road to facilitate the future development of the Harp Street site.**

Comment

Considering the proposal is for an additional two floors to a building approved under another development application, the request to amend this proposal to include a pedestrian link has no enforceable nexus to the application currently before Council. Further, the objector's planning consultant has failed to demonstrate that such a request in itself has any public benefit, other than that it would facilitate the development of private land. It should also be noted that there is no statutory requirement for a development to provide a "public benefit", albeit that the benefit would simply be to facilitate pedestrian access to the northern portion of the objector's land. ✓

- x) **The Roads and Maritime Authority (RMS) has previously raised concern about the unacceptable traffic impacts resulting from the increased residential density on the site, resulting in Council omitting the 25m height control for the site from the Draft LEP, which was finalised in March 2015.**

Comment

As discussed previously, the Draft LEP sought (in part) to increase the maximum height of a number of sites within the Canterbury Road Corridor, as well as undertake range of housekeeping amendments. Following objections from the RMS, Council determined to exclude a number of specific sites from the Draft LEP, including the subject site.

This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor.

It is also important to note that the RMS specifically requested that any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road. This has been undertaken, as demonstrated by the Revised Traffic and Rail Link Assessment Report prepared by Varga Traffic Planning Pty Ltd. This assessment includes a SIDRA analysis of the operational network performance of the surrounding roads, stating that the SIDRA analysis shows the proposal "will not have any unacceptable traffic implications in terms of road network capacity." ✓ This

Although the RMS has expressed concerns with Council's stated intentions to increase the height and density of development along the Canterbury Road Corridor, and are in the process of conducting a regional network review, this does not preclude a merit assessment of the proposal, as required under Clause 4.6 of the CLEP 2012. The assessment of the applicant's written submission demonstrates that the proposal has sufficient planning merit to warrant approval. ✓

CONCLUSION

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support. The proposed development is well designed in providing good amenity for future occupants of the subject dwellings, and minimising impacts onto neighbouring residents. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the Canterbury Road corridor and indeed the local built environment. As such, it is recommended that the development application be approved subject to conditions.

RECOMMENDATION

THAT Council approve Development Application DA-592/2014 for alterations and additions to an approved mixed use development, including the construction of an additional two (2) residential levels containing 70 units, in the following manner:

PART A:

THAT the Clause 4.6 submission to vary Clause 4.3 of the Canterbury Local Environmental Plan 2012 be supported.

Part B:

THAT Development Application DA-592/2014 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of the relevant Construction Certificate:

1.1. Details of:

- Structural Engineering Plan including method of shoring during excavation
- Protection from termites
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Firewall Separation
- Section 73 Compliance Certificate
- Soil and Waste Management Plan
- Mechanical Ventilation of Basement Carpark
- BASIX Certification
- Compliance with Disability (Access to Premises – Buildings)

Standards 2010.

- Evidence of compliance with Condition No's. 5, 6, 14, 41, 42, 44, 60 and 61 of this consent.

1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.

1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3,231.00
Section 94 Contributions	\$3,067,128.82
Certificate Registration Fee	\$36.00
Long Service Levy	\$183,837.30
Long Service Leave Levy Fee	\$19.80

1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable;

Construction Certificate Application Fee	\$106,330.00
Inspection Fee	\$29,222.00
Occupation Certificate Fee	\$10,678.00

Note 1: Long Service Leave Levy payment; 0

(Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986).

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 5: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
 - 2.1. detailed plans and specifications of the building must be endorsed with the relevant Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
 - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

SITE SIGNAGE

3. A sign shall be erected at all times on your building site in a prominent position stating the following:

REPORT01

- 3.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
- 3.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
- 3.3. That unauthorised entry to the work site is prohibited.

DEMOLITION

4. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:
 - 7.00 a.m. – 5.00 p.m. Mondays to Fridays
 - 7.00 a.m. – 12.00 noon Saturdays
 No demolition is to be carried out on Sundays or Public Holidays.
 - (f) Burning of demolished building materials is prohibited.
 - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
 - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
 - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
 - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
 - (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.

- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at www.lead.org.au.
- (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- (p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

GENERAL

5. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
DA10 Issue F	25.10.2015	Geoform Architects	TBC
DA11 Issue F	25.10.2015	Geoform Architects	
DA12 Issue E	10.9.2015	Geoform Architects	
DA21 Issue E	10.9.2015	Geoform Architects	
DA22 Issue F	10.9.2015	Geoform Architects	
DA23 Issue F	10.9.2015	Geoform Architects	
DA24 Issue F	10.9.2015	Geoform Architects	
DA25 Issue F	10.9.2015	Geoform Architects	
DA26 Issue F	10.9.2015	Geoform Architects	
DA27 Issue F	10.9.2015	Geoform Architects	

6. Prior to the issue of a Construction Certificate, the applicants shall prepare and submit to Council for approval, full architectural drawings demonstrating that all car parking and bicycle parking spaces are provided in accordance with the provisions of Canterbury Development Control Plan 2012 as follows:

Allocation	Number of Spaces
Car Parking:	
Resident parking	405
Visitor parking for residents	65
Commercial parking	26
Ancillary spaces (1 x wash bay + 1 x courier space)	2
Total Car Parking:	498
Bicycle spaces:	
Resident	65
Resident visitor	32
Commercial	3
Commercial visitor	2
Total Bicycle Parking:	102

The drawings must also demonstrate the allocation of car parking spaces and bicycle spaces is in accordance with the provisions of Canterbury Development Control Plan 2012

If the development is to be strata subdivided, the car park layout must respect the above allocation.

7. A construction Certificate shall not be issued until such time as a Construction Certificate has been issued for DA-502/2013 relating to the construction of a six storey mixed use development on the subject site.
8. All car parking associated with the development must be accommodated on site.
9. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004. All disabled parking space dimensions, cross-falls, vertical clearances for access paths and above spaces are to be in accordance with the requirements of AS2890.6.
10. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
11. All bicycle spaces are to be provided in accordance with AS2890.3.
12. All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
13. Finishes and materials including the treatment of external walls, windows, doors and balustrades being in accordance with the 'External Colours and Finishes Schedule' received by Council on 3 June 2014. The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
14. Parking facilities/storage for 97 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the development (total of 102 spaces). These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.
15. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
16. The bathroom and ensuite window(s) being translucent glass.

REPORT01

17. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of **\$3,067,128.82** shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
<input type="checkbox"/> Open Space and Recreation	\$2711662.55
<input type="checkbox"/> Community Facilities	\$277424.62
<input type="checkbox"/> Plan Administration	\$78041.65

Note; The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

18. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
19. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
20. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
21. All building construction work must comply with the National Construction Code.
22. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
23. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
24. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
25. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
26. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.

REPORT01

27. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
28. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
29. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
30. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
31. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
32. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
33. Toilet facilities shall be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
34. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
35. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
36. Payment of an additional garbage levy for each new dwelling upon completion of work.
37. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
38. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
39. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development shall comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).

Construction periods of 4 weeks and under:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.

Construction periods greater than 4 weeks and not exceeding 26 weeks:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background

(LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.

40. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

DILAPIDATION & EXCAVATION

41. A photographic survey of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 111 Harp Street, Campsie detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
42. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 111 Harp Street, Campsie and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant.

LANDSCAPING

43. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-502/2013. The landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B and submitted to council on 30th May 2014) is a satisfactory landscape proposal for this development.

44. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-502/2013, these being the landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B dated 19 June 2014 and submitted to council on 30 May 2014).
45. Prior to the issue of the Construction Certificate, the following must be updated/provided:
 - 45.1. Planting along the 3m setback within the boundary along Canterbury Road. This may in the form of garden beds or low level plantings in line with those proposed within the development.
 - 45.2. A landscape technical specification must be included in the landscape plan.
 - 45.3. The landscape plan must also be accompanied by a maintenance schedule for 52 weeks post practical completion which includes the following:
 - a. replacement strategy for failures in plant materials and built works,
 - b. maintenance schedule for watering, weeding and fertilizing during the establishment period.

STORMWATER ENGINEERING

46. The stormwater system be constructed in general, in accordance with the plans, specifications and details received by Council on 19th November, drawing numbers SW00 B, SW02 B, SW03 B, SW04 B, SW05 B ; prepared by SGC and as amended by the following conditions.
47. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
48. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
49. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
50. Where OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the

accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.

52. A full width light duty vehicular crossings shall be provided at the vehicular entrance to the site, with a maximum width of 5 m at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
53. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
54. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, car parks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
55. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
56. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".

PUBLIC IMPROVEMENTS

57. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
58. The reconstruction of the kerb and gutter along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
59. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
60. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

WASTE MANAGEMENT

61. Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:

- 61.1. Plans demonstrating that an additional 45 x 240L rubbish bins (compacted at 2:1 ratio and collected twice weekly) and 60x 240L recycling bins (collected twice weekly) can be accommodated within the waste bin storage rooms. Bins must be collected from and returned to the waste bin storage rooms by Council's waste collection contractor. The bins must not be presented on the roadway.
- 61.2. The waste bin storage rooms are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
- 61.3. Unobstructed and unrestricted access must be provided to the waste bin storage rooms on collection days from 5.00am.
- 61.4. The owner of the development must indemnify Council's waste collection contractor against damage that may result from their entry onto the property to collect waste bins. Council's standard indemnity form shall be completed and returned to Council prior to the site being occupied.

CRIME PREVENTION & COMMUNITY SAFETY

- 62. All access points to the building (this would include lifts and stairwells) are to be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
- 63. The storage units located in the vicinity of the car spaces be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.
- 64. Lighting similar to category P1 of Australian Standard 1158.3.1:1999 for road lighting of pedestrian areas should be installed.
- 65. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.
- 66. In addition to existing lighting, sensor spot lights be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
- 67. Mirrors must be strategically erected around the site to assist with blind corners and increase natural surveillance.
- 68. Residents are to be made aware of our Home and Street Safety Kit which provides practical tips on how to increase community safety for our residents.
- 69. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
- 70. Signage is to be installed at all driveways, entry and access points.

DISABILITY ACCESS

- 71. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.
- 72. To fulfill the requirements of the Disability (Access to Premises – Buildings) Standard and AS1735, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100mm x 550mm must be provided. Details shall be provided with the application for the Construction Certificate.
- 73. To comply with the requirements of Part 7.5.1 of AS1428.1, all glazed doors and panels on a continuous accessible path of travel are to have a

transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings when viewed from either the inside or outside of the door. Details and compliance with this requirement shall be provided with the application for the Construction Certificate.

74. The development must wholly comply with all requirements of the Disability Discrimination Act 1992, Disability (Access to Premises – Buildings) Standard (2010), National Construction Code, AS1735.12: Lifts, Escalators and moving walks and Part 12: Facilities for persons with disabilities, at all times.

ACOUSTICS

75. Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic dated 20 June 2013, submitted with DA-509/2013, have been incorporated in the final design of the building.
76. Within thirty (30) days of the commencement of operations of the use of the premises, an acoustic compliance test is to be carried out by an acoustic engineer without the prior knowledge of the Management of the premises at the applicant's expense. Council will make arrangements for access to the nearest residential premises and a Council Officer will be in attendance during the testing procedure. The compliance test is to determine the effect the activities on the amenity of the residential neighbourhood. If the effectiveness of the measures implemented to minimise any noise do not meet the required standard, then additional works need to be undertaken to bring the premises up to the required standard as recommended by the acoustic engineer.

SYDNEY WATER REQUIREMENTS

77. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

CRITICAL INSPECTIONS

78. The following critical stage inspections must be carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):
- Class 2, 3 or 4 Buildings
- 78.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 78.2. prior to covering any stormwater drainage connections, and
- 78.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- Class 5, 6, 7, 8 or 9 Buildings
- 78.4. prior to covering any stormwater drainage connections, and

89. In granting this approval, we have considered the statutory design, materials and architectural features of the building, the approved design and external appearance of the building (colour of materials) will be permitted without our approval.

REPORT

- 78.5. after the building work has been completed and prior to occupation certificate being issued in relation to the

ADDITIONAL INSPECTIONS

79. Section 81(A) of the EP&A Act 1979 requires that a person who is the benefit of a development consent, if not carrying out the work as a builder, must notify the principal contractor for the building work of critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

80. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development. YOU will be required to provide the following:

WE ALSO ADVISE:

81. This application has been assessed in accordance with the Building Code of Australia.
82. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of the development.
83. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air Handling Systems
 - Final Fire Safety Certificate
 - Glazing
 - BASIX completion
 - Water Proofing
84. Any works to be carried out by Council at the applicant's cost will be applied for in advance.
85. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
86. The applicant is to ensure that landscaping and hydraulic plans are submitted and approved. Hydraulic details such as pits, stormwater lines, drains and retaining walls are to be shown on the Landscape Plan and the Human Impact Statement.
87. Before you dig, call "Dig before you Dig" on 1100 (listen to the recorded message, facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility information for any excavation areas.
88. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act 1992". You must comply with the Commonwealth Disability (Access to Premises) Standard 2010. Further information is available from the Australian Human Rights and Equal Opportunity Commission on 1800 021 199.

90. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
91. If you are not satisfied with this determination, you may:
 - 91.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
 - 91.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.



City of Canterbury

City of Cultural Diversity

BUSINESS PAPER

Meeting of

**INDEPENDENT HEARING AND
ASSESSMENT PANEL**

23 NOVEMBER 2015

Canterbury City – a great place to live and work



IHAP Chairperson and Panel Members

Notice is hereby given that a meeting of the Independent Hearing and Assessment Panel will be held in the Function Room, 137 Beamish Street, Campsie on Monday 23 November 2015 at 6.00 p.m.

Disclosure of Interest: Section 451 of the Local Government Act 1993 requires a panel member who has a pecuniary interest in any matter with which the Council is concerned and who is present at the meeting at which the matter is being considered must disclose the interest, and the nature of that interest, to the meeting as soon as practicable. The panel member is required to leave the room while the matter is being discussed and not return until it has been voted on.

Jim Montague PSM
GENERAL MANAGER

13 November 2015

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
CENTRAL WARD		
1	440-442 BURWOOD ROAD, BELMORE - DEMOLITION AND CONSTRUCTION OF SHOP TOP HOUSING DEVELOPMENT CONTAINING COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS WITH BASEMENT PARKING	7
EAST WARD		
2	388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS	40
3	548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING.....	78
4	548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS	91
5	18-22 NORTHCOTE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING DEVELOPMENT, FRONT FENCE AND BASEMENT PARKING	134

REPORT SUMMARIES

1 **440-442 BURWOOD ROAD, BELMORE - DEMOLITION AND CONSTRUCTION OF SHOP TOP HOUSING DEVELOPMENT CONTAINING COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS WITH BASEMENT PARKING**

- The proposal seeks consent for the demolition of existing structures and the construction of a six storey shop top housing development comprising two basement level parking areas, ground level commercial, and five levels of residential units above, with associated consolidation of two lots comprising Lot 3 in DP 227507 and Lot 10 in DP 857571.
- The application is reported to the Independent Hearing and Assessment Panel as it involves the construction of a building that is of four or more storeys with 20 or more residential units.
- The site is zoned B2 Local Centre under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposed development is defined as a “shop top housing” development which is permissible in the zone subject to Council consent.
- The proposal has been assessed under State Environmental Planning Policy 65 (SEPP 65), Canterbury Local Environmental Plan 2012 (CLEP 2012), Canterbury Development Control Plan 2012 (CDCP 2012), and other applicable codes and policies. The proposal is found to generally be in compliance with the requirements of these policies, with the exception of floor to ceiling heights, overall height of the building, separation distances and front setback distances. These non-compliances are discussed in further detail in the body of this report.
- The proposal has been notified and advertised in accordance with the provisions of Part 7 of CDCP 2012 and one submission was received which did not specifically object to the proposal. The submission is addressed in detail in the body of this report.
- The Director City Planning has recommended the application be approved subject to conditions.

2 **388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS**

- The proposal seeks consent to demolish existing structures and construct a six storey mixed use development (residential and commercial/retail premises) comprising three ground floor commercial units, 57 residential units, and two levels of basement car parking.
- The application has been referred to IHAP for consideration as the application is for a mixed use development involving a building that is of four or more storeys and more than 20 residential apartments.
- The site is zoned B5 Business Development under Canterbury Local

Environmental Plan 2012 (CLEP 2012) and is identified as a key site. The proposed development, defined as a mixed use development, is permissible in the subject zone.

- The development application has been assessed against the provisions contained in the relevant environmental planning instruments and development control plan. The proposal is found to generally be in compliance with the requirements of these policies, with the exception of building height, building setbacks, building separation and apartment size. These non-compliances are discussed in further detail in the body of this report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012 on two occasions. The first notification period ended on 17 September 2014 and five submissions were received. The second notification period ended on 14 October 2015 and no submissions were received.
- The Director City Planning has recommended the application be approved subject to conditions.

3 548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING

- This application has been assessed and the report has been prepared by an independent external planning consultant.
- Council has received a Section 96 (1A) application seeking to amend a Development Application (DA-509/2013), which was approved for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units, and associated basement car parking.
- The Section 96 (1A) application seeks to undertake alterations and additions, including:
 - i) an extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces; and
 - ii) design changes to reduce a small portion of floor area; increase building separation distances, improve the elegance of the overall design and introduce some higher quality finishes throughout the building.
- This DA was originally approved by the Sydney East Joint Regional Planning Panel (the Panel) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 as the original development has a capital investment value (CIV) of greater than \$20 million. The CIV for this application is considerably less than \$20 million.
- The site is known as 548-568 Canterbury Road, Campsie and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal (as amended) retains the approved ground floor commercial uses and residential units and therefore, satisfies the definition of a mixed use development. This use is permissible in the subject zone.

- The Section 96 (1A) application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007), Canterbury Local Environment Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.
- The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the Canterbury Development Control Plan 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal. However, DA-592/2014 involves the provision of two additional levels and design changes consistent with the subject Section 96 application and is currently being assessed and these changes were publically exhibited/notified to surrounding land owners.
- The Section 96 (1A) application is recommended for approval.

4 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS

- This application has been assessed and the report prepared by an independent external planning consultant (Willana and Associates P/L) on behalf of Council.
- Council has received a Development Application (DA-592/2014), seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels containing 70 units, has a capital investment value of \$12,009,433.00.
- The proposal has been extensively amended throughout the assessment process.
- The approved development (DA-509/2013) currently consists of 16 ground floor commercial units, 254 residential units and associated basement car parking.
- DA-509/2013 was approved by the Sydney East Joint Regional Planning Panel (JRPP) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the original development had a capital investment value of greater than \$20 million.
- The site is known as 548-568 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environment Plan 2012 (CLEP 2012). The site is identified as ‘A’ on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This development application has been assessed against the provisions

contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.

- The proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 20 October 2015 and 18 November 2015. Three submissions have been received objecting to the proposal. Issues raised in the submissions are provided in the body of this report.
- Council is also concurrently assessing a Section 96 (1A) application seeking to amend DA-509/2013, which approved the mixed use development that the subject DA relates. The Section 96 (1A) application seeks approval for various alterations and additions which are considered improvements generally to the development, as well as an extension to the basement level 3 carpark. The parking spaces in the basement level 3 extension will be allocated to the additional units proposed by this DA. Despite the additional parking proposed in this application, it is deficient by 15 car spaces and two bicycle spaces, when the development is viewed in its final form. Conditions have been imposed to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- Notwithstanding the variation sought to building height standard, the development application is recommended for approval subject to conditions.

5 18-22 NORTHCOTE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING DEVELOPMENT, FRONT FENCE AND BASEMENT PARKING

- A Development Application has been received for demolition of the existing site structures and construction of a multi dwelling housing development comprising 13 townhouses, front fence and basement level car park.
- The proposal has been significantly amended including a reduction of the total number of dwellings on the site from 21 to 13, redesign of the basement car park and the floor plates of the townhouses along the rear of the site.
- The application is reported to the Independent Hearing and Assessment Panel (IHAP) and ultimately to the City Development Committee for consideration and determination due to the number of submissions received objecting to the proposed development.
- The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). Multi dwelling housing is a permissible form of development in this zone with our consent.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Building Sustainability Index) BASIX 2004,

Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposed development involves non-compliances with some of these controls. Issues of non-compliance are discussed in the body of the report.

- The application was publicly exhibited and all adjoining properties were notified in accordance with the requirements of CDCP 2012. The application has been notified on two separate occasions. During the first notification period which related to the original design involving the retention of the existing residential flat building and construction of fifteen dwellings, we received 11 submissions, all objecting to the proposed development.
- In October 2015 the overall design was substantially revised including a reduction in the number of new dwellings from 15 to 13 and the removal of the existing residential flat building at 18 Northcote Street which comprised six dwellings.

The dwellings along the rear property boundary were also redesigned to one storey with the upper level components that face the rear boundary incorporated into the roof space. These amendments were renotified in October 2015 during which time a pro-forma petition with 74 signatures and four individual submissions objecting to the proposed development were received. Issues of concern related to the proposed development include overdevelopment of the site and not consistent with the local character, streetscape and design issues, amenity issues, traffic and parking issues, loss of privacy, non-compliance with Council development controls, decrease in property values, stormwater disposal, noise pollution and construction issues. These issues are discussed in the body of this report.

- The Director City Planning has recommended the application be approved subject to conditions.

3 548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING

FILE NO: 150/548D PT3 & 4
REPORT BY: DIRECTOR CITY PLANNING
WARD: EAST

D/A No:	DA-509/2013/A
Applicant:	Statewide Planning
Owner:	Sterling Linx Pty Ltd
Zoning:	B5 Business Development under Canterbury LEP 2012
Application Date:	17 December 2014 – Additional information received 17 September 2015 and 15 October 2015

Summary:

- This application has been assessed and the report has been prepared by an independent external planning consultant.
- Council has received a Section 96 (1A) application seeking to amend a Development Application (DA-509/2013), which was approved for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units, and associated basement car parking.
- The Section 96 (1A) application seeks to undertake alterations and additions, including:
 - i) an extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces; and
 - ii) design changes to reduce a small portion of floor area; increase building separation distances, improve the elegance of the overall design and introduce some higher quality finishes throughout the building.
- This DA was originally approved by the Sydney East Joint Regional Planning Panel (the Panel) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 as the original development has a capital investment value (CIV) of greater than \$20 million. The CIV for this application is considerably less than \$20 million.
- The site is known as 548-568 Canterbury Road, Campsie and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal (as amended) retains the approved ground floor commercial uses and residential units and therefore, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- The Section 96 (1A) application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index)

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007), Canterbury Local Environment Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.

- The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the Canterbury Development Control Plan 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal. However, DA-592/2014 involves the provision of two additional levels and design changes consistent with the subject Section 96 application and is currently being assessed and these changes were publically exhibited/notified to surrounding land owners.
- The Section 96 (1A) application is recommended for approval.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

- **Approved Development**
The Joint Regional Planning Panel (JRPP) approved DA-509/2013 for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units and associated basement car parking on 2 October 2014, subject to conditions. In detail, the approved development includes the following:
 - Demolition of the existing site structures and excavation for basement car parking;
 - Construction of three levels of basement parking with four ingress/egress points via a new rear laneway to be constructed along the southern boundary of the site. 402 off-street car parking spaces have been approved comprising 322 residential spaces, 26 retail/ commercial spaces, 54 visitor spaces and 53 bicycle spaces;
 - Basement level parking lots are to be accessed via individual points off a new laneway to be constructed along the southern boundary of the site;
 - A loading bay which can accommodate a variety of commercial vehicles up to and including 9.8 metre long rigid vehicles. A reversing bay at the western end of the future rear laneway is also proposed;
 - At ground floor level in Buildings A, B, C and D, 16 non-residential commercial units have been approved along the Canterbury Road frontage;
 - The remainder of the development comprises a mix of residential units (92 x one bedroom units, 140 x two bedroom units and 22 x three bedroom units);
 - A garbage storage area and collection area is provided within the ground level of each building;
 - Deep soil area and landscaping are provided within the central courtyard between Buildings A, B, C and D and around the periphery of Building E; and

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

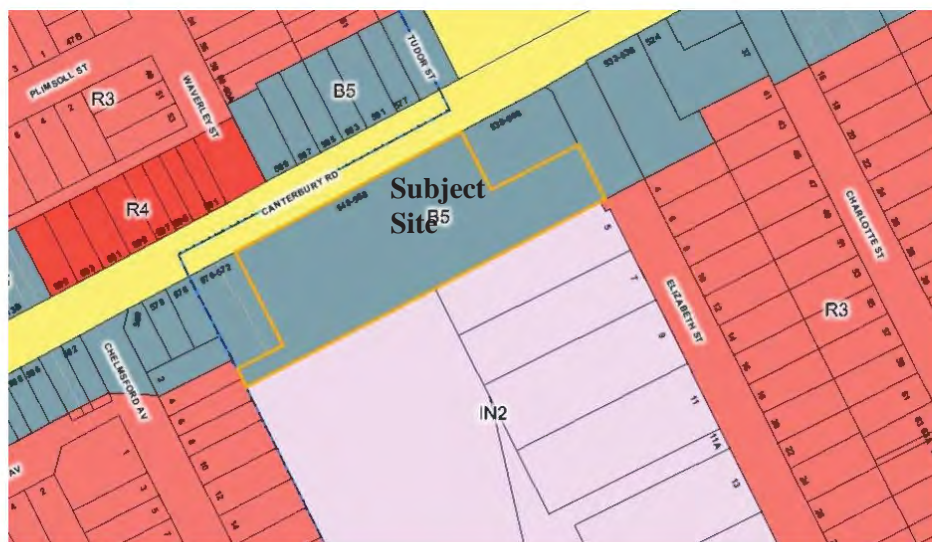
- Roof terraces totalling 845 m² also enhance common open space provision. Ground level communal open space is proposed at 661 m² resulting in a total of 18% of the site area allocated for common open space use.
- **Development Application - DA-592/2014 – Additional Levels**
Development Application (DA-592/2014) was submitted by the applicant on 15 December 2014, seeking consent to make alterations and additions to the mixed use development approved under DA-509/2013. Both the Section 96(1A) application and DA-592/2014 are to be considered concurrently. The alterations and additions proposed under DA-592/2014 consist of an additional two residential levels containing 70 units.

Site Details

The subject site is identified as Lot 106 DP 624546 and known as 548-568 Canterbury Road, Campsie. The irregular shaped land holding has frontage to Canterbury Road of 117.95 m to the north and a frontage to Elizabeth Street of 27.7 m to the east and a total site area of 8275 m². The site backs onto the adjoining allotments at 538-546 Canterbury Road and 570-572 Canterbury Road to the east and west respectively. The site has a slight cross fall from the north-west to the south-east of the allotment.

The site was previously occupied by a two storey bulky goods retail outlet, formerly used by Harrisons Timber and Hardware, with associated storage areas and car parking. The site is no longer in use in anticipation of its redevelopment. Access to the site is via Canterbury Road and Elizabeth Street.

The site is located in a transitional zone, with institutional uses to the north-east (Canterbury Hospital), mixed commercial/office uses to the east (clothing manufacturers, office, medical centre), light industrial uses to the rear/south, commercial/bulky goods retailing to the west and a car sales lot and low rise residential uses to the north. The outer lying areas are predominantly medium density residential development.



Subject Site zoning

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)



Aerial and surrounding development



View of site along Canterbury Road – looking west



Looking North on opposite side of Canterbury Road



Canterbury Road Frontage

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)



View of site from Elizabeth Street



Car park and vehicle access from Canterbury Road

Proposal

The Section 96 (1A) application that is the subject of this assessment report seeks to amend the approved mixed use development as follows:

- Extend basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces;
- Renumbering of levels to remove the ground floor reference results in former Level 6 = Level 7 and former Level 7 = Level 8;
- Internal changes to improve functionality of living rooms in Units A03, A07, A08, B03, B07, B08, C03, C07, C08, D03, D07, D08;
- Façade changes to Units A-D01 to introduce a ledge and a joint line to give the building a horizontal emphasis. Louvred screens and hoods were also removed so that the top of the building is more restrained and the overall building has a unified composition; and
- Revised finishes schedule that includes polished concrete and metal flat bar balustrades.

A concise list of all proposed modifications are detailed level by level in the Table provided in Section 1 of the Planning Report prepared by DDC Urban Planning, dated September 2015.

Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of and Section 96(1A) the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- Section 96 (1A) Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

Assessment

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues emerge:

- **Section 96 (1A) Environmental Planning and Assessment Act 1979**
Section 96(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) imposes four tests for an application seeking consent to modify a development consent, which are detailed below.

Are the proposed modifications of minimal environmental impact?

The proposed amendments relate to the internal re-configuration and provision of additional underground car parking within the approved footprint of the building. This will not have any external implications on adjoining properties or the biophysical environment or be visible from any part of the site.

The amendments also include a range of internal alterations and replanning of units, as well as some external modifications to improve internal amenity, increase setback and separation distances, improve on internal privacy, improve the overall built form and the quality of finishes to the building. The Table to Section 1 of the report from DDC Urban Planning also details the proposed benefits of the proposed changes, which is reflected further in their separate written submission dated 16 September 2015.

The proposed modifications will have minimal environmental impact for the following reasons:

- There will be no fundamental change to the uses and definition of the approved development;
- The modifications are largely internal and will not affect the approved building envelope, bulk, scale or massing;
- The modifications are generally compliant with the relevant planning controls;
- The modifications will result in an overall nett improvement in residential amenity through the improved solar access/ privacy and softened built form and visual appearance from the public realm;
- The modifications will not increase the GFA of the building;
- The modifications will not cause any additional overshadowing or visual massing for neighbours;
- The modifications will not cause any changes to the streetscape presentation of the development; and
- The modifications to the basement are to a part of the building that is already excavated below ground level with only car parking above it and will not compromise any deep soil or landscaped areas.

Is the proposal substantially the same development as originally approved?

Section 96(1A)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (b) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was*

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

originally granted and before that consent as originally granted was modified (if at all),

The development remains substantially the same as originally approved given:

- There will be no fundamental change to the use and definition of the approved development;
- There will be no change to the size or description of the land to which the consent relates;
- The original consent has not been previously modified pursuant to Section 96 of the EP&A Act, 1979 (as amended); and
- The qualitative impacts will be similar, if not better than, that of the approved development.

There is a considerable body of case law surrounding the “substantially the same” test, including *Marana Developments Pty Limited v Botany City Council [2011]*. In this case, the original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking. This also involved a changed unit mix. Despite significant internal changes, the Court held that the minimal change to the external floorplates and layout was of great significance and the test was satisfied.

In *Sydney City Council v Ilenace Pty Ltd [1984]* the Court judgment found that a proposal can only be regarded as a modification if it involves “alteration without radical transformation”. In *Vacik Pty Ltd v Penrith City Council [1992]* the Court judgment found that “substantially the same” meant essentially of “having the same essence”. Furthermore, in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999]* the Court judgment found that when undertaking the “substantially the same” test a comparison is required to be made between the consent as originally granted and the proposed modification and a consideration of the quantitative and qualitative elements of the proposal must be made with an appreciation of the elements proper context.

As can be seen by the case law, the subject proposal is not so different or radical as to require a new DA and is considered to have the same essential elements that which was originally granted consent by the Panel. Furthermore, consideration of the quantitative and qualitative elements of the proposal has been made. Consideration has been given to the context of the modifications in relation to the overall approved scheme. In this instance the proposed Section 96(1A) modifications are considered to satisfy the test for “substantially the same development”.

Has the Application been notified in accordance with the Regulations or a DCP?
Section 96(1A)(c) of the EP&A Act, 1979 provides as follows:

- (a) *It ... (the consent authority) ... has as notified the application in accordance with:*
- (i) *The regulations, if the regulations so require, or*

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- (ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.*

The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the CDCP 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal.

Have any submissions received concerning the modifications been considered?

Section 96(1A)(d) of the EP&A Act, 1979 provides that:

- (d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.*

No submissions were received as the application was not notified, as per Section 7.2 (ii) of the CDCP 2012.

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**

A supplementary design verification statement has been submitted by way of a qualitative peer review by Stanisic Architects. This review addresses the proposal's achievement of the ten Design Quality Principles contained within SEPP 65 and demonstrates that the proposal improves upon the original findings that the development is generally consistent with the objectives and numeric criteria of SEPP 65 and the Residential Flat Design Code.

- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The original proposal was accompanied by a BASIX Certificate, which listed a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required and have been met with regard to water, energy and thermal comfort targets. The proposal satisfies the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The proposed amendments do not alter the conclusions previously reached in respect to the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

Clause 7 of State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. The proposed amendments do not alter the conclusions previously reached in respect of SEPP 55.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**
State Environmental Planning Policy 2007 (SEPP 2007) aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The subject site is located on Canterbury Road which is a classified road for the purposes of the infrastructure SEPP. In accordance with Clause 104 the proposed development falls under the requirements of Schedule 3 of SEPP 2007 and requires referral to Roads and Maritime Services (RMS).

In light of the nature of the proposal, the previous conditions of approval supplied by the RMS and overall minor environmental consequences, the application was not referred to the RMS. The proposed amendments do not alter the conclusions previously reached in respect of SEPP 2007 and the original conditions placed on the application have not been removed.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**
The site is zoned B5 Business Development under CLEP 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The approved development involves ground floor commercial uses with upper floor residential units, and as such the mixed use development is permissible in the subject zone.

The proposed amendments will not alter the scheme's compliance with the key provisions of the CLEP 2012. Likewise, the proposed basement modifications will not be discernible externally or trigger any additional clauses contained within the CLEP 2012 that were not considered in the original assessment.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**
The proposed amendments do not alter the conclusions previously reached in respect of the proposal's compliance with the provisions of Part 3 Business Centres and Part 6 General Controls of CDCP 2012 is detailed below.

The proposed modifications involve no significant amendment to the relevant issues addressed by the CDCP 2012, namely:

- Isolation of sites
- Building Height
- Building Depth
- Building Setbacks
- Building Separation (as per SEPP 65)
- Building Configuration
- Design Controls
- Façades – New 3-5 storey buildings
- Shopfront
- Cantilevered Awning along Canterbury Road frontage
- Articulation
- Roof Design

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- Service and Utility Areas
- Visual Privacy
- Private Open Space, Balconies, terraces and Courtyards
- Internal Dwelling Space and Design
- Access and Mobility
- Climate and Resource Efficiency
- Crime Prevention Through Environmental Design
- Development Engineering, Flood and Stormwater
- Landscaping
- Preservation of Trees or Vegetation

The proposed modifications do not alter the general level of compliance with the CDCP 2012 or Council's conclusions drawn in relation to the above matters in the initial DA. The additional two levels of accommodation and corresponding assessment of the merits of these additions are dealt with under a separate DA (DA-92/2014).

The proposed modifications will involve some modification to the proposed car parking. Due to the minor nature, these modifications will not affect the performance of the development against the CDCP 2012 provisions.

Part 6.8 Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP as follows:

Standard	Requirement	Proposal	Complies
Residential Units	92 x 1 bedroom (1 each) 140 x 2 bedroom (1.2 each, with 0.2 common) 22 x 3 bedroom (2 each) = 276, plus 28 common spaces = 304 spaces	455 spaces	Yes
	Visitor – 51 spaces (based one 1 space per 5 units)	53 spaces	Yes
	One car wash bay	One car wash bay	Yes
	Resident bicycle spaces – 51 spaces	Total of 76 provided.	Yes
	Visitor bicycle spaces – 25 spaces		Yes
Commercial Units	Commercial units along Canterbury Road, rate is 1 space per 40sqm → Total 25 spaces	26 spaces provided	Yes
	One courier parking/ loading area space	1 space	Yes
	Bicycle parking 3 spaces for commercial use 2 spaces for visitors Total 5 spaces	Nil spaces provided, to be conditioned to provide 5 spaces	No – condition 14 imposed. See comments (1) below
Parking Summary	Total car parking required (resident + commercial) 304+25=329	455+26=481	Yes
	Total visitor car parking required (resident) = 51	53	Yes
	Total ancillary spaces (wash bay + courier) 1+1 = 2	1+1 = 2	Yes

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
	Total bicycle spaces required (resident + commercial) $51+3 = 54$	$51+0=51$	No – condition 14 imposed
	Total visitor bicycle spaces required (resident + commercial) $25+2 = 27$	$25+0=25$	No – condition 14 imposed

(1) Car Parking/Bicycle Storage

The proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. The lack of bicycle parking for the commercial tenancies represents a minor discrepancy, which has been addressed through the imposition of Condition 14. Further, the plans provided with DA-592/2014 provide sufficient bicycle parking for the additional units contemplated by that application, as well as the five spaces required by Condition 14 of DA-502/2013. Accordingly, this is considered to be an acceptable outcome.

Notification

No submissions were received as the application was not notified, as per Section 7.2 (ii) of the CDCP 2012.

Conclusion

The Section 96 (1A) application has been assessed pursuant to the provisions of Section 96 and Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant planning controls. The Section 96 (1A) application has been found to be satisfactory and worthy of support. The proposed modifications will maintain the approved use and building form. The modifications are of a relatively minor nature in the context of the development and will have no significant adverse impacts on surrounding properties. The proposed development will remain 'substantially the same' development for which consent was granted and the proposed modifications will have minimal environmental impact.

Accordingly, it is recommended that the Section 96(1A) application be approved subject to conditions.

RECOMMENDATION:

THAT Development Application DA-509/2013/A for a Section 96(1A) modification relating to alterations and additions to an approved mixed use building at 548-568 Canterbury Road, Campsie be approved. The modifications relate to an extension to basement level 3 and modifications to a number of units on each floor of the building. These modifications are recommended for approval, subject to conditions of the original approval with exception to conditions 5, 10, 14 and 17 which are modified as follows:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
GENERAL

- 5 The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
S96-01 Issue E	September 2015	Geoform	15 October 2015
S96-02 Issue E	September 2015	Geoform	15 October 2015
S96-03 Issue E	September 2015	Geoform	15 October 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

S96-04 Issue F	September 2015	Geoform	15 October 2015
S96-05 Issue F	September 2015	Geoform	15 October 2015
S96-06 Issue F	September 2015	Geoform	15 October 2015
S96-07 Issue F	September 2015	Geoform	15 October 2015
S96-08 Issue F	September 2015	Geoform	15 October 2015
S96-09 Issue F	September 2015	Geoform	15 October 2015
L/01 – L/03	19 June 2013	ATC Landscape Architects & Swimming Pool Designers	30 May 2014

- 5.1 The developer/applicant is to prepare a revised car parking and bicycle spaces allocation plan for the development, and submit it to the Principal Certifying Authority prior to the issuing of a Construction Certificate. The allocation plan must ensure car parking and bicycle spaces are correctly allocated to the dwellings within the residential component of the development, and to the commercial uses on the lower and upper ground levels.
- 5.2 The Cantilevered Awning along the Canterbury Road frontage is to have a width of 3 metres.
- 5.3 All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
- 10A. In the event that the consent for DA-592/2014 is activated, the applicant/ developer shall provide a total of four hundred and two (402) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Three hundred and twenty two (322) residential spaces, twenty eight (28) of which retained as common property
 - 10.2 Fifty four (54) residential visitor spaces
 - 10.3 Twenty six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space
- 10B. In the event that the consent for DA-592/2014 is not activated, the applicant/ developer shall provide a total of four hundred and ninety-eight (498) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Four hundred and five (405) residential spaces, thirty seven (37) of which retained as common property.
 - 10.2 Sixty five (65) residential visitor spaces
 - 10.3 Twenty-six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space

If the development is to be strata subdivided, the car park layout must respect the above allocations.
14. Parking facilities/storage for 76 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the development. These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.
17. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

services and public facilities in the area.

The monetary contribution of \$3,118,164.79 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$282,039.89
• Community Facilities	\$2,756,788.46
• Plan Administration	\$79,336.44

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

**4 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF
ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY
MIXED USE BUILDING COMPRISING ADDITIONAL
RESIDENTIAL APARTMENTS**

FILE NO: 150/548D PT 3 & 4

REPORT BY: DIRECTOR CITY PLANNING

WARD: EAST

D/A No:	DA-592/2014
Applicant:	Statewide Planning
Owner:	Sterling Linx Pty Ltd
Zoning:	B5 Business Development under Canterbury LEP 2012
Application Date:	15 December 2014 – Additional information received 17 September 2015, 15 October 2015 and 10 November 2015

Summary:

- This application has been assessed and the report prepared by an independent external planning consultant (Willana and Associates P/L) on behalf of Council.
- Council has received a Development Application (DA-592/2014), seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels containing 70 units, has a capital investment value of \$12,009,433.00.
- The proposal has been extensively amended throughout the assessment process.
- The approved development (DA-509/2013) currently consists of 16 ground floor commercial units, 254 residential units and associated basement car parking.
- DA-509/2013 was approved by the Sydney East Joint Regional Planning Panel (JRPP) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the original development had a capital investment value of greater than \$20 million.
- The site is known as 548-568 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This development application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

(CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.

- The proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 20 October 2015 and 18 November 2015. Three submissions have been received objecting to the proposal. Issues raised in the submissions are provided in the body of this report.
- Council is also concurrently assessing a Section 96 (1A) application seeking to amend DA-509/2013, which approved the mixed use development that the subject DA relates. The Section 96 (1A) application seeks approval for various alterations and additions which are considered improvements generally to the development, as well as an extension to the basement level 3 carpark. The parking spaces in the basement level 3 extension will be allocated to the additional units proposed by this DA. Despite the additional parking proposed in this application, it is deficient by 15 car spaces and two bicycle spaces, when the development is viewed in its final form. Conditions have been imposed to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- Notwithstanding the variation sought to building height standard, the development application is recommended for approval subject to conditions.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

- **Original Development Application - DA-509/2013**
The JRPP approved DA-509/2013 for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units and associated basement car parking on 2 October 2014, subject to conditions. In detail, the approved development includes the following:
 - Demolition of the existing site structures and excavation for basement car parking;
 - Construction of three levels of basement parking with four ingress/egress points via a new rear laneway to be constructed along the southern boundary of the site. 402 off-street car parking spaces are proposed comprising 322 residential spaces, 26 retail/ commercial spaces and 54 visitor spaces. In addition, the proposal includes 53 bicycle spaces;
 - Basement level parking lots are to be accessed via individual points off a new laneway to be constructed along the southern boundary of the site;
 - A loading bay which can accommodate a variety of commercial vehicles up to and including 9.8 metre long rigid vehicles. A reversing bay at the western end of the future rear laneway is also proposed;
 - At ground floor level in Buildings A, B, C and D, 16 non-residential commercial units are proposed along the Canterbury Road frontage;

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- The remainder of the development comprises a mix of residential units (92 x one bedroom units, 140 x two bedroom units and 22 x three bedroom units);
 - A garbage storage area and collection area is provided within the ground level of each building;
 - Deep soil areas and landscaping are provided within the central courtyard between Buildings A, B, C and D and around the periphery of Building E; and
 - Roof terraces totalling 845m² also enhance common open space provision. Ground level communal open space is proposed at 661m² resulting in a total of 18% of the site area allocated for common open space use.
- **Section 96(1A) Application to Modify DA-509/2013**
A Section 96 (1A) application to amend DA-509/2013 is currently under concurrent assessment by Council. This application seeks to undertake alterations and additions, including:
 - An extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces.
 - Renumbering of levels to remove the ground floor reference results in former Level 6 = Level 7 and former Level 7 = Level 8.
 - Internal changes to improve functionality of living rooms in Units A03, A07, A08, B03, B07, B08, C03, C07, C08, D03, D07, D08.
 - Façade changes to Units A-D01 to introduce a ledge and a joint line to give the building a horizontal emphasis. Louvred screens and hoods were also removed so that the top of the building is more restrained and the overall building has a unified composition.
 - Revised finishes schedule that includes polished concrete and metal flat bar balustrades.

A concise list of all proposed modifications are detailed level by level in the Table provided in Section 1 of the Planning Report prepared by DDC Urban Planning, dated September 2015. Note is also made that the alterations to the basement car park are intended to facilitate the provision of adequate car parking to meet the demand generated by the subject DA (DA-592/2014).

- **Amendment to CLEP 2012 – Building Heights**
At the meeting on 31 October 2013 Council resolved to endorse an amendment to the CLEP 2012, which included adoption of the draft Canterbury Residential Development Strategy. The LEP amendment also included a proposal to increase the building height limits at particular sites within the Canterbury Road Corridor. In this regard, the subject site proposed to increase the height limit from 18m (approximately 5-6 storeys) to 25m (8 storeys).

While the Residential Development Strategy originally recommended increasing the building height limit for the subject site to 21m (7 storeys), Council adopted a 25m height limit. The Amendment to the CLEP 2012 was subsequently placed on public exhibition and at an Extraordinary Meeting of Council on 2 October 2014, Council resolved to adopt the exhibited planning proposal. The Planning Proposal was then sent to the NSW Department of Planning and Environment for a Gateway Determination.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

During this process, the RMS raised concerns at the unknown traffic and road safety implications across the Regional Road Network as a result of increased numbers and density on a number of identified sites. In relation to the subject site, the RMS made the following comments:

“Roads and Maritime notes that the planning proposal to increase permissible building height of the subject site has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed. Traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road should be assessed. Roads and Maritime is likely to require access to be provided from the adjoining local road network for any future development or subdivision of the subject site.”

Consequently, Council determined to omit a number of specific properties (including the subject site) from the Planning Proposal to allow resolution of the issues separately, while proceeding with a range of other important amendments to the CLEP 2012. The CLEP 2012 was formally amended in March 2015 and there is no outstanding or active Planning Proposals by Council that relate to this particular site. However, there is a Council resolution to increase the height limit on this site to 25m.

Site Details

The subject site is identified as Lot 106 DP 624546 and known as 548-568 Canterbury Road, Campsie. The irregular shaped land holding has frontage to Canterbury Road of 117.95 m to the north and a frontage to Elizabeth Street of 27.7m to the east and a total site area of 8275m². The site backs onto the adjoining allotments at 538-546 Canterbury Road and 570-572 Canterbury Road to the east and west respectively. The site has a slight cross fall from the north-west to the south-east of the allotment.

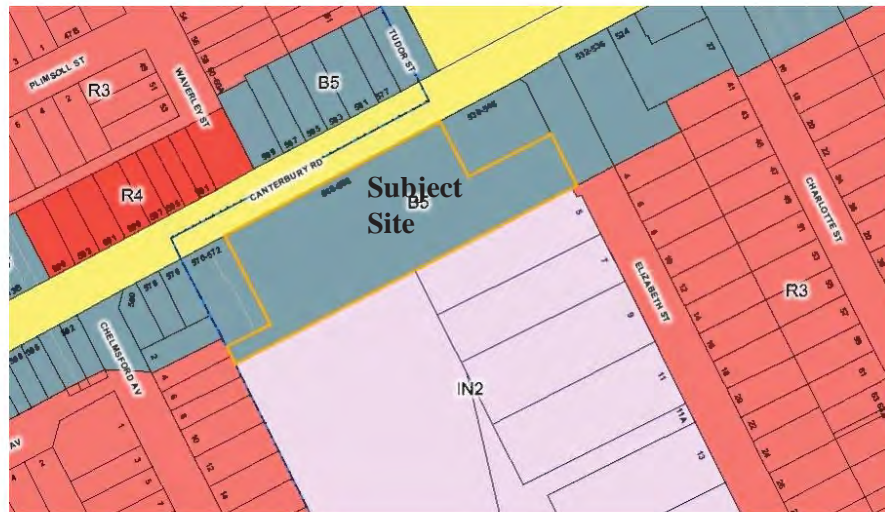
The site was previously occupied by a two storey bulky goods retail outlet, formerly used by Harrisons Timber and Hardware, with associated storage areas and car parking. The site is no longer in use in anticipation of its redevelopment. Access to the site is via Canterbury Road and Elizabeth Street.

The site is located in a transitional zone, with institutional uses to the north-east (Canterbury Hospital), mixed commercial/office uses to the east (clothing manufacturers, office, medical centre), light industrial uses to the rear/south, commercial/bulky goods retailing to the west and a car sales lot and low rise residential uses to the north. The outer lying areas are predominantly medium density residential development.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)



Subject Site zoning



Aerial and surrounding development

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)



View of site along Canterbury Road – looking west



Looking North on opposite side of Canterbury Road



Canterbury Road Frontage



View of site from Elizabeth Street



Car park and vehicle access from Canterbury Road

Proposal

The application proposes to construct an additional two levels on an approved six storey mixed use development, resulting in an eight storey building. The additional two levels will contain a total of 70 residential units in the following configurations:

Configuration	Quantity
1 bedroom	20 (28.6%)
2 bedroom	40 (57.1%)
3 bedroom	10 (14%)
Total	70

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The allocation of units across the four approved buildings within the development is shown in the table below:

	Building A	Building B	Building C	Building D	Building E	Total
1 Bed	23	23	23	23	20	112
2 Bed	46	39	36	38	24	183
3 Bed	4	5	8	5	7	29
Total	73	67	67	66	51	324

Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

Assessment

The development application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 and the following key issues emerge:

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**
This policy applies to residential flat buildings of three or more storeys and is required to be considered when assessing this application. SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing “good design”. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgment of the development application. This documentation has been submitted.

In addition, SEPP 65 requires the assessment of any DA for residential flat development against ten principles contained in Clauses 9 to 18 and Council is required to consider the matters contained in the RFDC, pursuant to the provisions of Clause 30 (2) (c) of SEPP 65. While the RFDC has since been replaced by the Apartment Design Guide for new Development Applications, the RFDC is still applicable to this application and has been considered in the assessment of the proposal, as demonstrated in the Table below. This assessment indicates that the proposal is consistent with the Rules of Thumb.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
Building depth	10m – 18m	12m-16m	Yes
Building separation	<u>5-8 storeys/ up to 25m:</u> <ul style="list-style-type: none"> - 18m between habitable rooms/ balconies - 13m between habitable rooms/ balconies and non-habitable rooms - 9m between non-habitable rooms 	<p>The proposal generally achieves the required building 9m/ 13m/18m separation distances, with the provision of suitable screening devices/ window placement. This is reinforced by appropriate conditions of consent.</p> <p>It is important to note that the southern elevation follows the approved setbacks for levels five (previously level 6) down to the ground floor. The setback and separation distance for the upper floors of the approved development appear to have been approved on the basis of sharing the required separation distances with any likely future development on that land, which is an accepted practice.</p>	Yes with conditions regarding the placement of suitable privacy measures.
Communal open space	25% to 30% with a 4m minimum dimension	No change to quantum provided as five rooftop areas and four ground level courtyards under DA 502/2013.	Yes
Deep soil zone	At least 25% of Site Area	No change to quantum provided under DA 502/2013.	Yes
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter. Reduced to 2 hours in <i>dense urban areas</i> .	The site qualifies as being within a <i>dense urban area</i> and accordingly, needs only to achieve at least 70% of units with 2 or more hours of solar access.	Yes

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
	No more than 10% single aspect south facing apartments.	A total of 35 of the 254 units (13%) approved under DA 502/2013 were single aspect and south-facing. The current proposal shows that 12 of the proposed 70 units (17%) will be single aspect and south-facing, resulting 47 units (or 14.5%) in the final development.	No however, due to the restrictions imposed by the approved floorplate and orientation of the approved building, the variation is relatively minor in its context.
Natural ventilation	At least 60% of apartments are naturally cross ventilated	60% of all units are cross-ventilated.	Yes
	25% of kitchens should have access to natural ventilation.	Design of each floor of the building follows that of the approved floors below. All kitchens are less than 8m from a window with a significant proportion of units being corner units or cross-through units.	Yes
Ceiling Height	Habitable rooms – 2.7m Non-habitable – 2.4m 2 storey units – 2.7m for main living area; 2.4m for 50% of upper floor In Mixed Use areas – 3.3m for ground and level 1	Habitable rooms – 2.7m Non-habitable – 2.4m	Yes
Apartment size		All units satisfy the minimum apartment sizes specified in the Rule of Thumb in the RFDC.	Yes
Type	Area		
03.01 Studio	Internal area		
	External area		
03.02 One bedroom	Internal area		
cross through	External area		
03.03 One bedroom	Internal area		
maisonette/loft	External area		
03.04 One bedroom	Internal area		
single aspect	External area		
03.05 Two bedroom	Internal area		
corner	External area		
03.06 Two bedroom	Internal area		
cross through	External area		
03.07 Two bedroom	Internal area		
cross-over	External area		
03.08 Two bedroom	Internal area		
corner with study	External area		
03.09 Three bedroom	Internal area		
	External area		

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
Apartment environmental performance	Single aspect apartments limited to a depth of 8m from a window	All single aspect apartments are designed to have rooms with doors no more than 8m from a window. Internal bathrooms which are mechanically ventilated and artificially lit of some apartments have their doorways within 8m of a window.	Yes
	The back of a kitchen to be no more than 8m from a window.	No kitchen is more than 8m from a window.	Yes
	The width of cross-over or cross-through apartments over 15m deep should be 4m or more	All cross through apartments are of varying widths which equates to average apartment width of 6m.	Yes
Private open space and balconies	Balconies to be at least 2m deep	Minimum dimension of 2m achieved.	Yes
Common circulation and spaces	Maximum of eight apartments off a circulation core on a single level.	A maximum of eight units per core.	Yes
Storage	As well as kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at: - studio units = 6m ³ - 1 BR units = 6m ³ - 2 BR units = 8m ³ - 3 BR units = 10m ³	All units are provided with internal and basement storage as per the RFDC.	Yes
Pedestrian access	Barrier free access to at least 20% of units	All units are accessible via lifts and ramps.	Yes
Waste management plan	Waste Management Plan must be provided	A Waste Management Plan was provided with the original DA submission.	Yes

Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply and properties on Canterbury Road more generally. As such, the proposed development, while contemporary in design, is expected to complement and positively contribute with existing and likely future development in the locality.

Scale

The scale of the proposed development is determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within CDCP 2012. Further, Council's policy intentions are clearly stated in that a height limit of 25m was adopted by Council for the site (Council Resolution dated 9 October 2014).

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The proposal satisfies the underlying objectives of the height, building setback and separation controls applying to the land, despite the numerical non-compliance with the maximum building height as it currently stands. This numerical non-compliance is not necessarily fatal to the application and detailed consideration of this aspect of the proposal is contained further below. Notwithstanding this, the development is consistent with the scale of development identified for the future character of the locality.

Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. All dwellings are reasonable in dimension and have balconies and/or courtyards that provide reasonably good amenity and are accessible from living areas.

Density

As noted above, the scale of the proposed development is clearly determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within the CDCP 2012. No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is consistent with the type of development contemplated by the CDCP 2012 controls in a locality that is expected to undergo transition into the future.

Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

Landscape

The proposed development provides a number of good quality and functional communal open space areas including courtyards and roof terraces, in excess of the minimum requirements of the CDCP 2012 and the RFDC. Landscape treatments for the site will add to the general amenity offered to future residents and satisfy the requirements of Part 6.6 of CDCP 2012. It is also noted that the development provides good amenity for future occupants with each unit being provided with adequate and functional balcony/ terrace spaces.

Amenity

The proposed development will provide good levels of amenity for future occupants of the development, with good solar access, natural ventilation and privacy. In this regard, the proposal is generally consistent with the requirements of the RFDC. The proposed units contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

The application is also accompanied by a peer reviewed Design Verification Statement which states a number of internal changes to the units on the lower levels were undertaken specifically to improve internal amenity:

“The proposed amendments to the internal corners of buildings above level 5 by replanning units to relocate balconies and increase separation between

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

private open spaces improves the visual and acoustic privacy between dwellings.

All lift lobbies, except building E have access to natural light and ventilation which is appropriate with approximately 10 units off each corridor. While Building E would benefit from access to natural light, this building has 7 units per corridor which satisfies the RFDC.

The removal of projecting forms to the north-west of buildings A-D and north-east of buildings B + D increases building separation and increases the amount of sunlight to units, as well as private and communal open spaces, while reducing the amount of blank walls.

At levels 4-7 of buildings A-D, built forms to the west have been removed and setback to maintain a consistent setback around the perimeter. This increases the amount of natural light to the units along the western facade."

The improvement in the overall levels of internal amenity is supported, even though the amenity anticipated and accepted by both the JRPP and Council on DA-509/2013 was deemed to be acceptable and compliant with the RFDC.

Safety and Security

Satisfactory provision for security and resident/public safety is provided. The proposal does not alter the previous findings for DA-509/2013 with respect to safety and security.

Social Dimensions and Housing Affordability

The amended proposal does not alter the previous findings for DA-509/2013 with respect to the potential social impacts, housing mix or affordability. The proposal (as amended) will provide a variety of apartment layouts and an appropriate housing mix to complement the housing available within the locality and meet the anticipated future demands.

Aesthetics

The peer reviewed Design Verification Statement confirms that the proposed development achieves the design quality principles contained in SEPP 65. The overall aesthetic of the building is suitably designed and is expected to positively contribute to the desired future character of the locality.

It is noted that additional design features have been added to improve the overall design, as follows:

"The introduction of polished concrete and metal flat bar balustrades are acceptable and provide fine grain detail to the elevation and assist in reducing the amount of rendered wall surfaces.

The northern elevation has been amended to create a unified composition which is supported. The additional stepping of forms at level 2, 4, 6 + 8 has

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

been simplified by creating an asymmetrical top to the building with a strong horizontal emphasis, by introducing a ledge and removing screens.”

The proposal is generally consistent with the provisions of SEPP 65 and the RFDC prepared by the Department of Planning and Infrastructure.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**

A BASIX Certificate accompanies the development application and lists a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.

- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Council previously considered that the site held a low risk of contamination in its assessment of DA 509/2013. The proposed development does not alter the conclusions previously reached in respect of the SEPP.

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires for the purposes of a residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

DA-509/2013 was accompanied by an Acoustic Assessment prepared which details various measures that were incorporated in the original conditions of development consent. These measures are to be incorporated into the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

In terms of Clause 104 of the SEPP, the site is located on Canterbury Road which is a Classified Road. Having regard to the Table to Schedule 3 of the SEPP, the application proposes 70 dwellings and no additional parking spaces (which are provided via the concurrent Section 96(1A) application). Accordingly, the proposal does not require a

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

referral under this clause to the RMS, based on the size or capacity triggers contained in Columns 2 or 3 of the Table to Schedule 3.

The proposed development therefore meets the requirements of SEPP 2007. Where required, relevant conditions will need to be imposed on any development consent issued.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal involves retaining the approved commercial uses with an additional two levels of residential apartments and modifications to the residential units on other levels, thus maintaining the approved mixed use definition and use. A mixed use development is permissible in the subject zone.

The proposal compares to the further relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development	The proposed development is permissible with development consent	Yes
Floor Space Ratio (FSR)	No FSR applies	No FSR controls apply to the B5 zone under CLEP 2012, however the application will realise an FSR of approximately 2.96:1.	N/A
Building Height	18m in Zone B5, however will be increased to 25m upon gazettal of the Draft CLEP 2012.	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – Refer to comments below.

The proposal seeks a variation to Clause 4.3(2) of CLEP 2012 relating to the height of buildings. The applicant has submitted a statement in accordance with Clause 4.6 of CLEP 2012.

Current Context to Clause 4.6 Submissions

In deciding whether a development standard, such as building height, should be modified, it is important to understand the current context surrounding Clause 4.6 submissions. The most recent and relevant matter before the Land and Environment Court has been that of *Four2Five Pty Ltd vs Ashfield Council*. A summary of this matter is provided below.

The issues arising out of *Four2Five Pty Ltd v Ashfield Council* involved the following appeals and judgements:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*Four2Five No 1*'), where the appeal against the refusal of consent was upheld, subject to conditions;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*Four2Five No 2*'), where an appeal was made pursuant to S. 56A of the Land and Environment

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Court Act 1979 on a point of law with respect to one of the deferred commencement conditions imposed by the Commissioner. This appeal was dismissed; and

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*‘Four2Five No 3’*) where leave was sought to appeal the judgment in *‘Four2Five No 2’* and ultimately dismissed.

In *Four2Five No 1*, the Court held that the proposed development in that case (which sought a variation to the maximum height standard in the B4 Zone) was consistent with the zone objectives and also in the public interest because it was consistent with the objectives of the standard. However, the Court held that consideration also needs to be given to whether there are sufficient environmental planning grounds to justify contravening the development standard.

In the appeal, the applicant’s written Clause 4.6 submission put forward the proposition that the environmental planning grounds justifying contravening the standard were the benefits arising from the additional housing and the employment opportunities that would be delivered by the development having regard to its close proximity to railways, schools, the Ashfield town centre, etc.

The Court accepted that the proposed development would provide those public benefits but noted that any development for a mixed use in the B4 zoned land would provide those same benefits. The Court therefore held in this respect:

- That the grounds advanced by the Applicant in its Clause 4.6 submission are not particular only to the proposed development site; and
- That to accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land which is an objective of the Environmental Planning and Assessment Act 1979 (s5(a)(ii)) and which it can be assumed is within the scope of the “environmental planning grounds” referred to in clause 4.6(4)(a)(i) of the relevant Local Environmental Plan (LEP).

The Court subsequently upheld the appeal, granting a deferred commencement consent. The deferred commencement consent imposed conditions that (amongst other things), required the deletion of some of the units, thereby enforcing the height limit.

In *Four2Five No 2*, the Applicant sought to have the deferred commencement conditions relating to the deletion of the units removed, arguing that the Commissioner in *Four2Five No 1* had made an error of law in terms of the tests to be satisfied in a Clause 4.6 submission. The Court however upheld the Commissioner’s findings with respect to the Clause 4.6 submission and dismissed the appeal.

In *Four2Five No 3*, the Applicant sought leave to appeal against the Judgement in *Four2Five No 2*, citing three grounds for appeal on a question of law. The Court refused leave to appeal, confirming the procedure and determination made by the Commissioner in *Four2Five No 1* to be correct.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The Variation Request

Clause 4.6 of the CLEP 2012 applies to this development as follows:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause (4) requires the Consent Authority to withhold development consent unless it is satisfied that:

- (4) (a) (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

In attempting to demonstrate compliance with Subclauses (3) and (4), the applicant's written submission provides the following arguments:

"To ensure a "better outcome" for the site it is proposed to make several changes to the six storey approved building on the site. In general terms these changes increase the east-west building separations to reduce the overall building form, improve solar access into east and west facing units and further enhance privacy amenity within the site. Building bulk is also reduced at the Canterbury Road elevation by narrowing the widths of the building forms. The quality of certain finishes have also been lifted to bring an overall improvement to the appearance of the development.

Small areas at the 'internal' corners of the building have been slightly increased in footprint to increase the size of these units and also to improve privacy between balconies at this location. These areas are well noted on the amended plans."

The applicant has also provided a table identifying a range of amendments to the proposal and the correlating benefits, such as reduced building bulk, improved public domain and improved solar access. Additionally, the applicant states that:

"...the increase in building separation will result in an improvement in solar access to some units and better privacy between units. This is a benefit and results in a better planning outcome than provided by the existing approval."

The applicant's submission also provides the following arguments to justify the variation as follows:

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant states that the standard is unnecessary in this instance as:

- *“The application is proposing numerous design changes to the already-approved six storey development on the site. Specifically these include a reduction in floor area to increase building separation distances, improve the elegance of the overall design and provide for higher quality finishes to the building (these proposed amendments are the subject of a Section 96 application to the original consent).*
- *Taller buildings up to 25 metres are desirable for this section of Canterbury Road in order to more strongly define the urban structure of Canterbury, while at the same time complementing the taller buildings associated with institutional uses to the north-east such as Canterbury Hospital.*
- *The merits of defining the immediate locality by well-defined buildings and a taller built form have been supported by Council in its recent urban studies. In particular, that planning direction is advocated by the Canterbury Residential Development Strategy which underlies the recent planning proposal to amend Canterbury LEP to increase permissible heights on the site. “*
- *Design features including the rear laneway as shown in the DA drawings, will mitigate impacts of the development.*

The applicant also submits that Council has already deemed the approved development satisfied the objectives of the zone and that the additional residential floors and an improved building quality will not compromise the attainment of these objectives.

(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard

The applicant provides the following as environmental planning grounds to justify contravening the development standard:

- *“The development is generally within the 25m building height control as endorsed by Council at its meeting of 2 October 2014, with the exception of minor variations due to topography and the rooftop elements (which can be readily approved under Clause 5.6 of the CLEP 2012);*
- *The proposed bulk and scale (as amended) is compatible with the future desired character of neighbouring sites along Canterbury Road and supports the mixed use pedestrian oriented centre along this transport corridor;*
- *The proposed development is compatible surrounding land uses to the rear provides an appropriate height and land use transition, with the introduction of the rear laneway providing a suitable transition between these zones; and*
- *The departure from the maximum building height will not result in any significant adverse amenity impacts such as overshadowing, privacy*

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- impacts or any significant view loss to the public domain or surrounding properties above that which is otherwise permissible under the existing controls.*
- *The context within which this proposal is made is a growing international city. Sydney will experience significant property growth in future decades and key sites in key suburbs must be developed appropriately and to their potential. As this takes place, additional services will be provided and changes to transport infrastructure will take place. This site is appropriate for this development and the traffic increases from the additional units is very modest.*
 - *In addition to providing a scheme which will sit well within Council's vision for this part of Canterbury Road in terms height and density, it will provide a welcome contribution to housing needs in the area and a better street system. Sydney is in crisis and affordability is a massive issue at the heart of a housing boom."*

Having regard to the above matters and Clause 4.6(3), the applicant's written request has satisfactorily addressed the matters required to be demonstrated by sub-clause (3). It is also considered that the proposed development has sufficiently demonstrated:

- Compliance with the numerical standard is either unnecessary or unreasonable in the specific circumstances of the site, given that it satisfies the objectives of both the zone and the height standard;
- The proposal has sufficient planning merit and environmental planning grounds to warrant the variation.

In addition, strict compliance with the height standard as it currently stands, is not in the public interest, given Council's stated intentions for the Canterbury Road Corridor.

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003. In the granting of concurrence and having due regard to the provisions of Clause 4.6(5), the Secretary has determined that the use of Clause 4.6 to vary a development standard in the current context, will not be a matter of State or regional planning significance; that the public benefit of maintaining the standard does not outweigh its variation; and that there are no other relevant matters.

Having regard to the above commentary, the preceding matters arising from *Four2Five Pty Ltd vs Ashfield Council*, and Council's previous intentions to increase the height limit for the site to 25m, it is considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 and vary the height standard to permit the proposed development.

Clause 5.10 of CLEP 2012

The subject site is within the vicinity of Canterbury Hospital which is listed as a Heritage item under Schedule 5 and identified as I46 on the Heritage Map (Canterbury LEP 2012). Clause 5.10 of CLEP 2012 requires consideration and assessment of the extent to which the proposed development may affect the heritage significance of the subject heritage item. In this regard, the development is contained wholly within the

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

site and will not have a material impact on the adjacent Heritage item. The proposal is consistent with the objectives of Clause 5.10 of CLEP 2012 in that the heritage significance of the item is conserved as is the environmental heritage of Canterbury.

- Canterbury Development Control Plan 2012 (CDCP 2012)**

An assessment of the proposal against the requirements of Part 3 Business Centres of Canterbury Development Control Plan 2012 (CDCP) is detailed below.

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	This matter was considered in the assessment of DA 509/2013. The proposal will have no additional impact on 538-546 Canterbury Road.	Yes
Building Height	18 m (shown on CLEP 2012 Map)	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – refer to comments under CLEP 2012 and assessment of the Cl. 4.6 submission
	Floor to ceiling height in commercial min. 3.3m	N/A	N/A
	Floor to ceiling height in residential min. 2.7m	2.7 metres	Yes
	Floor to ceiling height in car parking min. 2.8m	N/A	N/A
Building Depth	Commercial component 10-24 metres	N/A	N/A
	In general, an apartment building depth of 10-18 metres is appropriate	All apartments have a depth of less than 18 metres	Yes
Building Setbacks	1-4 storeys Minimum setback of 3 m from front street boundary <ul style="list-style-type: none"> No controls for secondary frontages 	N/A	N/A
	Buildings greater than 5 storeys requires an additional 5m setback (i.e. 3m +5m)	The proposed levels 7 and 8 are setback between 10.6m and 13.2m. In comparison, approved level 6 below the new floors is setback 8m from the front property boundary.	Yes
Building Separation (as per SEPP 65)	6m up to 3 storeys 12m 4 th storey 18m 5 th storey	Refer to SEPP 65 assessment	Yes
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	N/A	N/A
Design Controls	Clearly identifiable entries, Provide main common entry.	N/A	N/A

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
	Habitable room window to face communal areas	Habitable windows facing communal areas and perimeter of the development	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Façades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	Façade is in accordance with the articulation requirements, as outlined in this table.	Yes
Shopfront	Shop premises to present a suitable streetscape appearance and allowing adequate security	N/A	N/A
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	N/A	N/A
	Width of 3 metres	N/A	N/A
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the façade, including the quality and durability of its materials, should be emphasised.	The façade is of a high architectural standard. Materials used are of a high quality and are durable.	Yes
	The 'façade' should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 m with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Vertical emphasis is provided with appropriate modulation through the use of varying materials and external finishes.	Yes
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road	Yes

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
	Balconies should be used in moderation and be integrated into the overall composition of the façade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the façade. There is adequate variety in the balconies configuration between the lower and upper levels of the development.	Yes
	The majority of windows shall be vertically rectangular	Majority of windows are vertically rectangular	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	Roof structure takes advantage of the northerly aspect to the front of the site to provide maximum solar access with eaves provided at appropriate locations for shading purposes	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Adequately screened	Yes
	Discretely locate mailboxes in front of property	N/A	N/A
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design has adequately addressed visual privacy issue through window placements and sufficient setbacks with the adjoining property. Floor layouts from approved units below have generally been adopted.	Yes

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
Private Open Space, Balconies, terraces and Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space.	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for 2 and 3 bedroom dwellings with minimum depth of 2 metres	Balconies provide the minimum private open space requirements with adequate depth. Condition to be imposed requiring all units to comply with this requirement.	Yes
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies.	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room.	Yes
	Primary balconies to have minimum depth of 2 m and be functional in dimensions	Minimum depth of 2m and functional in design.	Yes
	Design and detail balconies in response to local climate	Balconies have been designed where achievable to have northern orientation to maximise solar access.	Yes
	Storage: 6m ³ / 1 bedroom unit 8m ³ / 2 bedroom unit 10m ³ / 3 bedroom unit	To be imposed as a condition of consent.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 827.5sqm)	No change to ground floor areas. Rooftop spaces duplicated from DA 502/2013.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes
Housing Choice	10% minimum of each bedroom configuration	20 x 1 Bed = 28.6% 40 x 2 Bed = 57.1% 10 x 3 Bed = 14.3%	Yes
	10% of dwellings are adaptable	10% of the units are accessible and adaptable apartments in accordance with the DCP provisions.	Yes

Part 6 – General Controls

The proposed development compares to Part 6 of CDCP 2012 as follows:

Part 6.1 Access and Mobility

The Disability Access Committee provided its comments in relation to the original development that was the subject of DA-509/2013. The Committee raised no objection to the development proceeding subject to the imposition of conditions of

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

consent, and requirement that the development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code. The nature of the proposal is such that it does not raise any issues not already foreseen by the Committee.

Part 6.2 Climate and Resource Efficiency

Mixed Use Development

Part 6.2.6 and 6.2.7 provide requirements governing solar access and natural ventilation. These standards are generally higher than those contained within SEPP 65. The proposal satisfies the requirements for solar access and natural ventilation and given that the SEPP overrides the DCP control, the proposal is considered acceptable in this instance.

Part 6.3 Crime Prevention Through Environmental Design

The two additional floors will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

- The upper units in the proposed mixed use development contain residential units that address the street;
- The parking area does not dominate the development as it is provided at basement level;
- The proposal provides clearly delineated access points;
- Secure basement access and access to the dwellings is proposed;
- Each communal open space provides different features in terms of use and landscaping to give a sense of ownership; and
- The access arrangement is appropriate to service the number of units within each block.

Part 6.4 Development Engineering, Flood and Stormwater

The proposal will connect into the approved stormwater infrastructure proposed and approved under DA 502/2013. No objections have been raised by Council's Development Engineer, subject to conditions being attached to any consent granted.

Part 6.6 Landscaping and Part 6.7 Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by Council's Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being imposed on any consent issued.

Part 6.8 Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Requirement	Proposal	Complies
Residential Units: 20 x 1 BR (@1 space/ unit) 46 x 2 BR (@1.2 spaces/ unit each, with the 0.2 as common) 4 x 3 BR (@ 2 spaces/ unit) = (20+46+8) = 74 +9.2 common spaces = 83.2 spaces (83)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
Visitor – 14 spaces (@one 1 space / 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
One car wash bay	As part of total development	Yes
Resident bicycle spaces – 14 spaces (@1 space/ 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
Visitor bicycle spaces – 7 spaces (@1 space/ 10 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)

The details provided by the applicant of the proposed car parking allocations across DA-509/2013, the subsequent Section 96(1A) application and this DA appears confusing. Therefore, in order to understand the overall level of compliance when seen as a completed development, the following table has been prepared.

Parking Summary: DA 502/ 2013 modified by S96 (1A) + DA 592/ 2014		
Requirement	Proposal	Complies
<u>Residential:</u> Resident Parking = 322+83=405	322+79 = 401	No – 4 spaces shortfall. See Comment (1)
Visitor parking (resident) = 51 + 14 =65	54 (shortfall of 12 spaces)	No – 11 spaces shortfall. See Comment (1)
Total Residential = 405+65 = 470	401+54 = 455	No – 15 spaces shortfall. See Comment (1)
<u>Commercial:</u> Commercial parking = 26	26	Yes
Ancillary spaces (wash bay + courier) = 1+1 = 2	2	Yes
Total parking all uses = 470+26+2 =498	483	No – 15 spaces shortfall. See Comment (1)
<u>Bicycle spaces:</u> Resident = 51+14 = 65 Resident visitor = 25+7 = 32 Commercial = 3 Commercial visitor = 2 Total = 65+32+3+2 =102	51+ 49=100	No – 2 spaces shortfall. See Comment (1)

Note: Figures in both tables are based on the unit mix derived from the submitted plans due to inconsistencies in the supporting documentation.

(1) Car Parking/Bicycle Storage

Despite the shortfall in car and bicycle spaces provided, the proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Appropriate conditions have been included in the consent to ensure the appropriate

INDEPENDENT HEARING AND ASSESSMENT PANEL**23 NOVEMBER 2015**

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

provision and allocation of parking spaces. This will require the submission of new drawings prior to the issue of the construction certificate, demonstrating how the additional parking is to be provided.

The applicant has also submitted a Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd, which includes a SIDRA analysis of the operational network performance of the surrounding roads. The SIDRA analysis indicates that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. Council's Traffic Engineer has also reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal. It is also noted that in the RMS did not raise any objections to the DA 502/2013, imposing a range of standardized conditions.

Part 6.9 Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant. However, concerns were raised in regard to the size and design of the residential and commercial waste bin holding areas. These concerns have been included and imposed as conditions of consent, ensuring that the on-going and operational waste management procedures of the development is satisfactory and is in accordance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves 28 x one bedroom dwellings, 38 x two bedroom dwellings and four x three bedroom dwellings to the site which attracts a contribution of \$842,872.56. This contribution is subject to indexing.

Other Considerations

- **Acoustics**

Given the location of the site located along a busy road, the application has been accompanied by an Acoustic Assessment prepared by Acoustic Logic dated 20 June 2013 which details various measures that are to be incorporated in the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

- **National Construction Code**

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed; including that full compliance with the National Construction Code is to be achieved.

Referrals

- **Roads and Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

Notification

The development application was advertised in the local newspaper and notified to adjoining and nearby property owners between 20 October 2015 and 18 November 2015 in accordance with Part 7 – Notification of Development Applications of Canterbury Development Control Plan 2012. Council received three submissions objecting to the proposal. The submissions raised the following issues of concern, which are discussed below:

- **The area is already overdeveloped and traffic is at near gridlock levels. The proposal is not in the best interests of the local community**

Comment

The proposed development, in terms of bulk and scale, is different to existing development in the locality, nevertheless, it is consistent with Council's adopted new planning controls in the CLEP 2012 and the CDCP 2012. Although the increase in height for this site was excluded from the last LEP amendment, it demonstrates a clear intention by Council to increase the height and development potential of buildings along the Canterbury Road Corridor in order to see viable redevelopment occur. The proposal will result in a development that represents the desired future character along the Canterbury Road Corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

With respect to traffic movements, it is acknowledged that a development of this scale will result in some increased traffic movements in the immediate locality. The Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd also includes a SIDRA analysis of the operational network performance of the surrounding roads and makes the following comments with respect to this issue:

“Accordingly, it is likely that the proposed development will result in an increase in the traffic generation potential the site of approximately 20 vph ...

That projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity.

The results of the SIDRA analysis of the Canterbury Road & Elizabeth Street intersection are summarised on Table 3.1 below, revealing that:

- *under the projected future traffic demands expected to be generated by the previously approved development proposal, the Canterbury Road & Elizabeth Street intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of 6 seconds/vehicle*
- *under the projected future traffic demands expected to be generated by the new revised development proposal, the Canterbury Road & Elizabeth Street intersection is expected to continue to operate at Level*

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

of Service "A", with increases in average vehicle delays of less than 1 second/vehicle.

In the circumstances, it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity."

Council's Traffic Engineer has reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal.

- **The Draft LEP Amendment has not yet been gazetted and the development is contrary to the Canterbury Road Masterplan which envisaged higher buildings at major intersections and lower buildings between nodes with a maximum height set at 18m.**

Comment

As discussed above, the Draft LEP, which (amongst other things) sought to increase the maximum height from 18m to 25m was gazetted in March 2015, excluding the proposed height limit for this site and others in order to progress the other housekeeping amendments. This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor. It is also noted that despite the RMS expressing these concerns and requesting any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road, Council is not automatically precluded from assessing the individual merits of a proposal.

The proposal is consistent with both Council's stated policy intent and previous resolutions to pursue increased densities along the Canterbury Road Corridor, and SEPP 65 as assessed above, and the Clause 4.6 submission has demonstrated that the development satisfies the relevant statutory planning matters.

The Canterbury Road Master Plan, while it has informed the controls in the CDCP 2012, is not in itself a statutory document and has been superseded by the Residential Development Strategy. The Master Plan does advocate higher intensity mixed use development at key nodes or key centres/ villages, however a node is not synonymous with a street intersection. In the context of the Master Plan, the site lies within the Hospital Precinct, however there are no specific provisions limiting the height of development on the site.

- **Clause 4.6 is only for relatively minor outcomes, while the proposal represents a significant exceedance and does not create any public benefit.**

Comment

Clause 4.6 is not designed to ensure only "minor" variations to development standards and does not contain any language that implies a numerical limitation must be applied in the consideration of a variation to a development standard. This is supported by the NSW Department of Planning and Infrastructure's publication "Varying development

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

standards: A Guide” (August 2011) which likewise does not state or imply numerical limitations should be adopted. Further, there is a substantial body of case law in the NSW Land and Environment Court, including *Panarea Investments Pty Ltd 23 v Manly Council* [2015] NSWLEC 1026 which establish that there is no requirement that the variation be only “minor”.

The applicant has also submitted a written submission in accordance with Clause 4.6 of CLEP 2012 addressing the proposed height variation. Having reviewed the Clause 4.6 submission against the relevant statutory matters that must be considered in the determination of this variation, it is considered that the applicant has adequately demonstrated that:

- i) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- ii) there are sufficient environmental planning grounds to justify contravening the development standard; and
- iii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 4.6 does require an applicant to prove that a proposal creates a public benefit. The concept of “public benefit” has evolved out of the judgment of the Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 where the Commissioner stated that a development must demonstrate what the environmental planning grounds for a variation were particular to the site in question. This has been demonstrated in the applicant’s submission in this instance.

- **The development will be an ugly prominent mass with ugly balustrades that will impact on privacy.**

Comment

The additional floors, accompanied by the increased setbacks to the side boundaries under the Section 96 (1A) application currently under assessment by Council, will not result in any loss of privacy to adjoining properties. Likewise, the improved finishes and materials as proposed under the Section 96 (1A) application, will result in a development that is consistent with the desired future character with sufficient modulation, visual interest and design features.

- **The proposal does not provide open space suitable as children’s play areas where they can kick a ball.**

Comment

The proposal satisfies the requirements in terms of quantum and quality of common open space areas contained in the RFDC and the CDCP 2012, providing a range of recreational experiences and facilities.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- **The proposal does not contemplate the residential potential for the pocket of industrial land to the south, known as the Harp Street Site and will restrict the feasible development of this land for residential purposes.**

Comment

The proposal is for an additional two floors on an approved mixed use building. The approved building limits the ability to modify the proposed development any further than it has and the consideration of amenity impacts is appropriate to the land use activities currently occurring on the adjoining industrial land.

While foreshadowed, Council has not received any applications seeking to rezone or redevelop the adjoining Harp Street industrial area. This area was specifically excluded from Council's Residential Strategy and the Canterbury Road Master Plan given the historical use as a quarry and associated poor subsoil conditions, with the report to the Extraordinary Meeting of Council on 31 October 2013 noting that the Harp Street site has limited land use potential. The proposal is deemed to have shown due regard for the potential of the Harp Street site, given its current use and zoning. It should be noted that there are no guarantees that any proposal to redevelop this land will eventuate and no statutory obligation to consider hypothetical development outcomes that are not consistent with a site's zoning.

- **Shadow diagrams were not available for viewing through the notification period and it was not possible to determine the potential shadow impact.**

Comment

The shadow diagrams submitted with both DA-502/2013 and DA-592/2014 have both been considered in this assessment. Although the objector's planning consultant may not have viewed the shadow diagrams, this does not prevent Council from undertaking an assessment and forming an opinion on the level of impact.

In terms of the additional impact on adjoining residential properties, the proposal will not have any significant adverse impact on solar access, with the dwellings along the south eastern side of Chelmsford Avenue and north eastern side of Elizabeth Street still achieving at least 3 hours solar access during midwinter.

The bulk of the shadow cast by the additional floors will fall over the adjoining industrial land at 11-13 Harp Street. Neither SEPP 65 nor the CDCP 2012 contain any solar access standards for industrial land.

- **The Clause 4.6 submission is being used inappropriately to make incremental changes to a development standard which should be the subject of an LGA-wide LEP amendment, as held in *Winten Property Group v North Sydney Council* (2001) NSWLEC 46, which states "Furthermore it is now established that although the discretion conferred by SEPP 1 is not to be given a restricted meaning and its application is not to be confined to those limits set by other tribunals in respect of other legislation, it is not to be used as a means to effect general planning changes throughout a municipality such as are contemplated by**

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

the plan making procedures set out in Part III of the Environmental Planning and Assessment Act.”

Comment

Firstly, although the objector’s planning consultant quotes the judgment from *Winten Property Group v North Sydney Council* (2001) NSWLEC 46, the actual text quoted is in from another case, *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986) that was quoted by the Senior Commissioner in the *Winten* matter. The contention raised by the objector also overlooks the fundamental basis of Clause 4.6, which is:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”

The application does not seek to make incremental changes as there are no previous applications that have sought increases in the building height. Further, the proposed development only seeks to vary the height development standard as it applies to the subject development. That Council sought to increase the height limit on a number of properties within the Canterbury Road Corridor, and adopted a policy stance in that regard, does not preclude the applicant from seeking to vary the height development standard.

It is also considered that the applicant’s submission has been prepared in accordance with the NSW Department of Planning and Infrastructure’s publication “Varying development standards: A Guide” (August 2011). The matters identified in the Guidelines are consistent with the SEPP 1 objection principles identified in the *Winten* matter and the five part test developed in *Wehbe V Pittwater [2007] NSW LEC 827*.

- **The proposal does not have adequate setbacks from the rear laneway to ensure privacy to future residential development on 11-13 Harp Street.**

Comment

The JRPP considered the separation distances and setbacks of the proposal in its approval of DA-502/2013 and found the original development – including the separation provided by the laneway to be suitable, resulting in the approval of that application. The proposal satisfies the setback and separation distance criteria and objectives as contained within both the RFDC and the CDCP 2012.

- **The proposal does not demonstrate any tangible public benefit and the proposal should provide a pedestrian link between Harp Street and Canterbury Road to facilitate the future development of the Harp Street site.**

Comment

Considering the proposal is for an additional two floors to a building approved under another development application, the request to amend this proposal to include a pedestrian link has no enforceable nexus to the application currently before Council. Further, the objector’s planning consultant has failed to demonstrate that such a

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

request in itself has any public benefit, other than that it would facilitate the development of private land. It should also be noted that there is no statutory requirement for a development to provide a “public benefit”, albeit that the benefit would simply be to facilitate pedestrian access to the northern portion of the objector’s land.

- **The Roads and Maritime Authority (RMS) has previously raised concern about the unacceptable traffic impacts resulting from the increased residential density on the site, resulting in Council omitting the 25m height control for the site from the Draft LEP, which was finalised in March 2015.**

Comment

As discussed previously, the Draft LEP sought (in part) to increase the maximum height of a number of sites within the Canterbury Road Corridor, as well as undertake range of housekeeping amendments. Following objections from the RMS, Council determined to exclude a number of specific sites from the Draft LEP, including the subject site.

This allowed Council and the RMS to work towards resolving the agency’s concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor.

It is also important to note that the RMS specifically requested that any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road. This has been undertaken, as demonstrated by the Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd. This assessment includes a SIDRA analysis of the operational network performance of the surrounding roads, stating that the SIDRA analysis shows the proposal “*will not have any unacceptable traffic implications in terms of road network capacity.*”

Although the RMS has expressed concerns with Council’s stated intentions to increase the height and density of development along the Canterbury Road Corridor, and are in the process of conducting a regional network review, this does not preclude a merit assessment of the proposal, as required under Clause 4.6 of the CLEP 2012. The assessment of the applicant’s written submission demonstrates that the proposal has sufficient planning merit to warrant approval.

Conclusion

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support. The proposed development is well designed in providing good amenity for future occupants of the subject dwellings, and minimising impacts onto neighbouring residents. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the Canterbury Road corridor and indeed the local built environment. As such, it is recommended that the development application be approved subject to conditions.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

RECOMMENDATION:

THAT

- A. The Clause 4.6 submission to vary Clause 4.3 of the Canterbury Local Environmental Plan 2012 be supported.
- B. Development Application DA-592/2014 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of the relevant Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan including method of shoring during excavation
 - Protection from termites
 - Building Specifications
 - Fire Safety Schedule
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Section 73 Compliance Certificate
 - Soil and Waste Management Plan
 - Mechanical Ventilation of Basement Carpark
 - BASIX Certification
 - Compliance with Disability (Access to Premises – Buildings) Standards 2010.
 - Evidence of compliance with Condition No's. 5, 6, 14, 41, 42, 44, 60 and 61 of this consent.
 - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
 - 1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3328.00
Section 94 Contributions	\$842,872.56
Certificate Registration Fee	\$36.00
Long Service Levy	\$42,013.10
Long Service Leave Levy Fee	\$19.80

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986.

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 5: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

INDEPENDENT HEARING AND ASSESSMENT PANEL**23 NOVEMBER 2015**

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
 - 2.1. detailed plans and specifications of the building must be endorsed with the relevant Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
 - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

SITE SIGNAGE

3. A sign shall be erected at all times on your building site in a prominent position stating the following:
 - 3.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
 - 3.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
 - 3.3. That unauthorised entry to the work site is prohibited.

DEMOLITION

4. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
No demolition is to be carried out on Sundays or Public Holidays.
 - (f) Burning of demolished building materials is prohibited.
 - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
 - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
 - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
 - (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
 - (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at www.lead.org.au.
 - (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
 - (p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

GENERAL

5. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
DA10 Issue F	25.10.2015	Geoform Architects	15 Oct 2015
DA11 Issue F	25.10.2015	Geoform Architects	15 Oct 2015
DA12 Issue E	10.9.2015	Geoform Architects	15 Oct 2015
DA21 Issue E	10.9.2015	Geoform Architects	15 Oct 2015
DA22 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA23 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA24 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA25 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA26 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA27 Issue F	10.9.2015	Geoform Architects	15 Oct 2015

6. Prior to the issue of a Construction Certificate, the applicant shall prepare and submit to Council for approval, full architectural drawings demonstrating that all car parking

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

and bicycle parking spaces are provided in accordance with the provisions of Canterbury Development Control Plan 2012 as follows:

Allocation	Number of Spaces
Car Parking:	
Resident parking	405
Visitor parking for residents	65
Commercial parking	26
Ancillary spaces (1 x wash bay + 1 x courier space)	2
Total Car Parking:	498
Bicycle spaces:	
Resident	65
Resident visitor	32
Commercial	3
Commercial visitor	2
Total Bicycle Parking:	102

The drawings must also demonstrate the allocation of car parking spaces and bicycle spaces is in accordance with the provisions of Canterbury Development Control Plan 2012.

If the development is to be strata subdivided, the car park layout must respect the above allocation.

7. A construction Certificate shall not be issued until such time as a Construction Certificate has been issued for DA-502/2013 relating to the construction of a six storey mixed use development on the subject site.
8. All car parking associated with the development must be accommodated on site.
9. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004. All disabled parking space dimensions, cross-falls; vertical clearances for access paths and above spaces are to be in accordance with the requirements of AS2890.6.
10. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
11. All bicycle spaces are to be provided in accordance with AS2890.3.
12. All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
13. Parking facilities/storage for 97 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the development (total of 102 spaces). These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.
14. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
15. The bathroom and ensuite window(s) being translucent glass.
16. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of \$842,872.56 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

components:

Contribution Element	Contribution
• Open Space and Recreation	\$76238.38
• Community Facilities	\$745188.72
• Plan Administration	\$21445.46

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index, The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

17. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
18. An intersection design is to be submitted to Council's City Works Department prior to the issue of a Construction Certificate for the intersection of Elizabeth Street and Canterbury Road prohibiting a right turn by way of signage and a seagull island. The applicant/developer is to bare cost of such works which must be completed to the satisfaction of the Director of City Works prior to the issue of an Occupation Certificate.
19. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
20. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
21. All building construction work must comply with the National Construction Code.
22. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
23. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
24. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
25. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
26. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
27. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
28. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
29. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
 30. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
 31. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 32. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
 33. Toilet facilities shall be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the NCC.
 34. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
 35. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
 36. Payment of an additional garbage levy for each new dwelling upon completion of work.
 37. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
 38. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
 39. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development shall comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).
Construction periods of 4 weeks and under:
 The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.
Construction periods greater than 4 weeks and not exceeding 26 weeks:
 The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.
 40. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.
 In this condition:
 - a) relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
- ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

DILAPIDATION AND EXCAVATION

41. A photographic survey of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 11 Harp Street, Campsie detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
42. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 11 Harp Street, Campsie and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant.

LANDSCAPING

43. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-502/2013. The landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B and submitted to council on 30th May 2014) is a satisfactory landscape proposal for this development.
44. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-502/2013, these being the landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B dated 19 June 2014 and submitted to council on 30 May 2014).
45. Prior to the issue of the Construction Certificate, the following must be updated/provided:
 - 45.1. Planting along the 3m setback within the boundary along Canterbury Road. This may in the form of garden beds or low level plantings in line with those

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

proposed within the development.

- 45.2. A landscape technical specification must be included in the landscape plan.
- 45.3. The landscape plan must also be accompanied by a maintenance schedule for 52 weeks post practical completion which includes the following:
 - a. replacement strategy for failures in plant materials and built works,
 - b. maintenance schedule for watering, weeding and fertilizing during the establishment period.

STORMWATER ENGINEERING

46. The stormwater system be constructed in general, in accordance with the plans, specifications and details received by Council on 19th November, drawing numbers SW00 B, SW02 B, SW03 B, SW04 B, SW05 B ; prepared by SGC and as amended by the following conditions.
47. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
48. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
49. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
50. Where OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
52. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5 m at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
53. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- being carried out at the applicant's cost.
54. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, car parks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
 55. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
 56. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".

PUBLIC IMPROVEMENTS

57. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
58. The reconstruction of the kerb and gutter along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
59. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
60. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

WASTE MANAGEMENT

61. Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:
 - 61.1. Plans demonstrating that an additional 45 x 240L rubbish bins (compacted at 2:1 ratio and collected twice weekly) and 60x 240L recycling bins (collected twice weekly) can be accommodated within the waste bin storage rooms. Bins must be collected from and returned to the waste bin storage rooms by Council's waste collection contractor. The bins must not be presented on the roadway.
 - 61.2. The waste bin storage rooms are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
 - 61.3. Unobstructed and unrestricted access must be provided to the waste bin storage rooms on collection days from 5.00am.
 - 61.4. The owner of the development must indemnify Council's waste collection contractor against damage that may result from their entry onto the property to collect waste bins. Council's standard indemnity form shall be completed and

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

returned to Council prior to the site being occupied.

CRIME PREVENTION AND COMMUNITY SAFETY

62. All access points to the building (this would include lifts and stairwells) are to be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
63. The storage units located in the vicinity of the car spaces be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.
64. Lighting similar to category P1 of Australian Standard 1158.3.1:1999 for road lighting of pedestrian areas should be installed.
65. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.
66. In addition to existing lighting, sensor spot lights be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
67. Mirrors must be strategically erected around the site to assist with blind corners and increase natural surveillance.
68. Residents are to be made aware of our Home and Street Safety Kit which provides practical tips on how to increase community safety for our residents.
69. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
70. Signage is to be installed at all driveways, entry and access points.

DISABILITY ACCESS

71. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.
72. To fulfil the requirements of the Disability (Access to Premises – Buildings) Standard and AS1735, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100mm x 550mm must be provided. Details shall be provided with the application for the Construction Certificate.
73. To comply with the requirements of Part 7.5.1 of AS1428.1, all glazed doors and panels on a continuous accessible path of travel are to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings when viewed from either the inside or outside of the door. Details and compliance with this requirement shall be provided with the application for the Construction Certificate.
74. The development must wholly comply with all requirements of the Disability Discrimination Act 1992, Disability (Access to Premises – Buildings) Standard (2010), National Construction Code, AS1735.12: Lifts, Escalators and moving walks and Part 12: Facilities for persons with disabilities, at all times.

ACOUSTICS

75. Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic dated 20 June 2013, submitted with DA-509/2013, have been incorporated in the final design of the building.

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

76. Within thirty (30) days of the commencement of operations of the use of the premises, an acoustic compliance test is to be carried out by an acoustic engineer without the prior knowledge of the Management of the premises at the applicant's expense. Council will make arrangements for access to the nearest residential premises and a Council Officer will be in attendance during the testing procedure. The compliance test is to determine the effect the activities on the amenity of the residential neighbourhood. If the effectiveness of the measures implemented to minimise any noise do not meet the required standard, then additional works need to be undertaken to bring the premises up to the required standard as recommended by the acoustic engineer.

SYDNEY WATER REQUIREMENTS

77. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

CRITICAL INSPECTIONS

78. The following critical stage inspections must be carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):
- Class 2, 3 or 4 Buildings
- 78.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
 - 78.2. prior to covering any stormwater drainage connections, and
 - 78.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- Class 5, 6, 7, 8 or 9 Buildings
- 78.4. prior to covering any stormwater drainage connections, and
 - 78.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

ADDITIONAL INSPECTIONS

79. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

80. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

WE ALSO ADVISE:

- 81. This application has been assessed in accordance with the National Construction Code.
- 82. You should contact Sydney Water prior to carrying out any work to ascertain if

INDEPENDENT HEARING AND ASSESSMENT PANEL

23 NOVEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- infrastructure works need to be carried out as part of your development.
83. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - Structural engineering work
 - Air Handling Systems
 - Final Fire Safety Certificate
 - Glazing
 - BASIX completion
 - Water Proofing
 84. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
 85. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
 86. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can affect layout of garden beds and plantings.
 87. Before you dig, call "Dial before you Dig" on 1 100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
 88. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act" and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
 89. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
 90. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
 91. If you are not satisfied with this determination, you may:
 - 91.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
 - 91.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

Chauntelle Mitchell - RE: Canterbury IHAP - Monday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie

From: Chauntelle Mitchell
To: Anthony Hudson; David Rollinson; Noni Ruker; Stacey Miers; iangarrar...
Date: 19/11/2015 4:16 PM
Subject: RE: Canterbury IHAP - Monday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie
CC: Lia Chinnery
Attachments: DA-509_2013 - 548-568 Canterbury Road Campsie.pdf

Dear Anthony,

I have referred your queries and will provide a response when received.

Please find attached the original consent for DA-509/2013, I note there is an typographical error in the officers report for Item 4, condition 7, 43 and 44 should refer to 'DA-509/2013' rather than 'DA-502/2013'.

Kind regards,

Chauntelle

>>> Anthony Hudson <ahudson@wilshirewebb.com.au> 19/11/2015 1:57 PM >>>

Hi Chauntelle

I am now thinking that clause 104 of SEPP Infrastructure requires the DA (item 4) to be referred to RMS. The existing DA is for 254 units the new DA adds 70 which is over 300. If existing DA is "existing premises" under cl 104 the on either column 1 or 2 of schedule 3 referral is required or the new DA is for "new premises" under cl 104 because it builds on the existing DA so the new premises is the whole development and referral required (Varga report says Canterbury Rd is a "State Road" which I assume is a classified road for cl 104) . Perhaps council can get referral comments from RMS before Mon otherwise there is a problem and should defer items 3 and 4 as council "must" refer the DA (item 4) to RMS under cl 104.

Regards

Anthony Hudson | Partner | Accredited Specialist – Local Government & Planning Law



WILSHIRE WEBB STAUNTON BEATTIE LAWYERS

T: 9299 3311 | F: 9290 2114 | ahudson@wilshirewebb.com.au | www.wilshirewebb.com.au
 LEVEL 9, 60 YORK STREET SYDNEY NSW 2000 | DX 777 SYDNEY NSW

This e-mail contains confidential information which may be subject to client legal privilege. Confidentiality and privilege are not waived if you are not the intended recipient of this e-mail. If you are not the intended recipient please delete this e-mail and notify Wilshire Webb Staunton Beattie by e-mail of the error. Although reasonable precautions are taken Wilshire Webb Staunton Beattie does not warrant this transmission or attachments are free from viruses or similar malicious codes and does not accept liability for any consequences to the recipient consequent upon opening or using this e-mail. You are strongly advised to check any attachments prior to use. Liability is limited by a scheme approved under Professional Standards Legislation.

From: Anthony Hudson

Sent: Thursday, 19 November 2015 1:19 PM

To: 'Chauntelle Mitchell' [REDACTED] 'David Rollinson'; 'Noni Ruker'; 'Stacey Miers'

Cc: 'Lia Chinnery'

Subject: FW: Canterbury IHAP - Monday 23 November 2015

Hi Chauntelle

Further to my previous email could the traffic engineer advise on following – the council sets new height by resolution Oct 2014 , the RMS then raise concerns then council drops site from CLEP 2012. The question then is what does RMS say about current proposals on the agenda which were , in effect , previously dropped by council because of RMS comments.

Regards

Anthony Hudson | Partner | Accredited Specialist – Local Government & Planning Law



WILSHIRE WEBB STAUNTON BEATTIE LAWYERS

T: 9299 3311 | F: 9290 2114 | ahudson@wilshirewebb.com.au | www.wilshirewebb.com.au
LEVEL 9, 60 YORK STREET SYDNEY NSW 2000 | DX 777 SYDNEY NSW

This e-mail contains confidential information which may be subject to client legal privilege. Confidentiality and privilege are not waived if you are not the intended recipient of this e-mail. If you are not the intended recipient please delete this e-mail and notify Wilshire Webb Staunton Beattie by e-mail of the error. Although reasonable precautions are taken Wilshire Webb Staunton Beattie does not warrant this transmission or attachments are free from viruses or similar malicious codes and does not accept liability for any consequences to the recipient consequent upon opening or using this e-mail. You are strongly advised to check any attachments prior to use. Liability is limited by a scheme approved under Professional Standards Legislation.

From: Anthony Hudson

Sent: Thursday, 19 November 2015 1:04 PM

To: 'iangarrard@optusnet.com.au'; Chauntelle Mitchell; David Rollinson; Noni Ruker; Stacey Miers

Cc: Lia Chinnery

Subject: RE: Canterbury IHAP - Monday 23 November 2015

Thanks Ian

Chauntelle could you send over the consent 509/2013 and I assume this should be the reference in conditions conditions 7, 43 and 44 of item 4 (or is it 502/2013) ? Also could you ask councils traffic engineer whether Varga or he / she discussed or referred the updated Varga report to RMS (second para on 115). Also could strategic planner advise what the status is of the parts of CLEP 2012 that were omitted as referred to on page 94.

Thanks

Regards

Anthony Hudson | Partner | Accredited Specialist – Local Government & Planning Law



WILSHIRE WEBB STAUNTON BEATTIE LAWYERS

T: 9299 3311 | F: 9290 2114 | ahudson@wilshirewebb.com.au | www.wilshirewebb.com.au
LEVEL 9, 60 YORK STREET SYDNEY NSW 2000 | DX 777 SYDNEY NSW

This e-mail contains confidential information which may be subject to client legal privilege. Confidentiality and privilege are not waived if you are not the

intended recipient of this e-mail. If you are not the intended recipient please delete this e-mail and notify Wilshire Webb Staunton Beattie by e-mail of the error. Although reasonable precautions are taken Wilshire Webb Staunton Beattie does not warrant this transmission or attachments are free from viruses or similar malicious codes and does not accept liability for any consequences to the recipient consequent upon opening or using this e-mail. You are strongly advised to check any attachments prior to use. Liability is limited by a scheme approved under Professional Standards Legislation.

From: [REDACTED]
Sent: Thursday, 19 November 2015 12:29 PM
To: [REDACTED] Chauntelle Mitchell; Anthony Hudson; David Rollinson; Noni Ruker; Stacey Miers
Cc: Lia Chinnery
Subject: Re: Canterbury IHAP - Monday 23 November 2015

Anthony,

Can you please give some thought to the following relating to 548 Canterbury:

* the Sect 96 application was not notified/exhibited however it involved an additional carpark of some 80 vehicles ?

* equally not notified to RMS , though requires referral (p86, SEPP 2007) to RMS which had (p94) required a traffic impact assessment as a condition of approval?

* Does the separation of Items 3 & 4 ie Sect 96 and then a new DA result in incremental decision making. ie the first establishes a new 80 space car park (as being substantially the same), and then once approved, the DA does not require a detailed assessment of traffic impacts as additional car spaces approved under Sect 96 application? All of this without referral to RMS (see above point re RMS requirement)?

Just a heads up as your thoughts, on Monday night, would be appreciated.

Ian

Yours sincerely

Dr. Ian Garrard

[REDACTED]

----- Original Message -----

From:

[REDACTED]

To:

"Chauntelle Mitchell" <Chauntellem@canterbury.nsw.gov.au>, "Anthony Hudson" <ahudson@wilshirewebb.com.au>, "David Rollinson" [REDACTED], "Ian Garrard" [REDACTED], "Noni Ruker" <noni.ruker@rukerurbandesign.com>, "Stacey Miers" [REDACTED]

Cc:

"Lia Chinnery" <Liac@canterbury.nsw.gov.au>

Sent:

Thu, 19 Nov 2015 12:10:49 +1100

Subject:

Re: Canterbury IHAP - Monday 23 November 2015

CM,<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Can you please assist with:

- 440 Burwood Rd
 - Forward a soft copy of Preliminary Site Investigation Report (p10 SEPP 55).
 - Provide a soft copy of Geotech Report (p25)
- 388 Canterbury Rd:
 - Provide a soft copy of Acoustic Report (p43).
- 440 Burwood Rd
 - Forward a soft copy of Acoustic Report (p103).
 - Forward a soft copy of Councils consideration of contamination and any associated applicants Contamination report as part of DA 509/2013 (p 103 SEPP 55).

Thanks

Ian

Yours sincerely

Dr. Ian Garrard

[REDACTED]

----- Original Message -----

From:

"Chauntelle Mitchell" <Chauntellem@canterbury.nsw.gov.au>

To:

"Anthony Hudson" <ahudson@wilshirewebb.com.au>, "David Rollinson"

[REDACTED], "Ian Garrard" [REDACTED], "Noni Ruker" <noni.ruker@rukerurbandesign.com>, "Stacey Miers"

Cc:

"Lia Chinnery" <liac@canterbury.nsw.gov.au>

Sent:

Fri, 13 Nov 2015 18:58:44 +1000

Subject:

Canterbury IHAP - Monday 23 November 2015

Dear Panel Members,

Thank you for your previous advice confirming your the dates you are available. I confirm you will be required to attend the meeting on **Monday 23 November 2015** only.

Please find attached the IHAP agenda for the meeting, a copy of the agenda with plans for the development applications has been mailed to you. Panel members will need to meet in Council's Function Room (2nd Floor) at **3.00pm**, for an inspection of the sites prior to the hearing.

Should you require any further information, please do not hesitate to contact me.

Regards,

Chauntelle

Chauntelle Mitchell | Administration Officer - IHAP

City of Canterbury 137 Beamish St Campsie NSW 2194<?xml:namespace prefix =
o />

T: 9789 9446 | F: 9789 1542

chauntellem@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Email sent using Optus Webmail

Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.
<http://www.mailguard.com.au/mg>

[Report this message as spam](#)

Chauntelle Mitchell - Re: Fwd: IHAP Tuesday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie

From: Warren Farleigh
To: Andrew Hargreaves; George Gouvatsos
Date: 20/11/2015 10:47 AM
Subject: Re: Fwd: IHAP Tuesday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie
CC: Gillian Dawson *maia*

In relation to the question regarding increases in building heights, there is currently **no** active resolution to prepare a planning proposal to increase building heights on this site.

As a consequence of the RMS objections following exhibition of the RDS planning proposal, which the Department of Planning & Environment held to be an unresolved agency objection, a number of sites, including this one, were removed from the planning proposal.

What was left in the planning proposal proceeded to finalisation and gazettal in March 2015.

Consequently all of the sites removed from the now former RDS planning proposal (being those the subject of the RMS objection) now require to be reported back to Council. Council will then need to decide whether or not to resolve to prepare a new planning building proposal which will require submission to the Department of Planning & Environment for a Gateway Determination.

Therefore those sites excluded from the exhibited RDS planning proposal are considered to have no status.

>>> George Gouvatsos 19/11/2015 4:58 PM >>>

Andrew,

As im not in tomorrow can you please chase up these matters and let Chauntelle know.

Warren can assist you with the strategic matters.

Thanks

George

Chauntelle Mitchell - Canterbury IHAP - Monday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie

From: Chauntelle Mitchell
To: Anthony Hudson; David Rollinson; Ian Garrard; Noni Ruker; Stacey Miers
Date: 23/11/2015 1:10 PM
Subject: Canterbury IHAP - Monday 23 November 2015 - Item 3 and 4: 548-568 Canterbury Road, Campsie
CC: Lia Chinnery

Dear Panel Members,

Further to the queries raised by Anthony, City Planning has provided the following response in relation to the issue of increasing the building height limit in certain locations:

In relation to the question regarding increases in building heights, there is currently **no** active resolution to prepare a planning proposal to increase building heights on this site.

As a consequence of the RMS objections following exhibition of the RDS planning proposal, which the Department of Planning & Environment held to be an unresolved agency objection, a number of sites, including this one, were removed from the planning proposal.

What was left in the planning proposal proceeded to finalisation and gazettal in March 2015.

Consequently all of the sites removed from the now former RDS planning proposal (being those the subject of the RMS objection) now require to be reported back to Council. Council will then need to decide whether or not to resolve to prepare a new planning proposal which will require submission to the Department of Planning & Environment for a Gateway Determination.

Therefore those sites excluded from the exhibited RDS planning proposal are considered to have no status.

Kind regards,

Chauntelle

Chauntelle Mitchell | Administration Officer - IHAP
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9446 | F: 9789 1542
chauntellem@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



DW: 5503807

150/548D PT3 & 4

Enquiries: Chauntelle Mitchell
Direct Phone: 9789 9446
Direct Fax: 9787 3064

Statewide Planning
PO Box 411
PARRAMATTA NSW 2124

Dear Sir/Madam

Subject: 548-568 Canterbury Road, Campsie (DA-594/2014)

I refer to your development application for construction of an additional two levels to an approved six storey mixed use development comprising additional residential apartments at the abovementioned site.

Further to our letter of 13 November 2015, the Independent Hearing and Assessment Panel deferred the application on 23 November 2015, until the application has been referred to the RMS.

Details of the Panel Assessment is provided as follows, for your information:

Panel Assessment (DA-509/2013/A and DA-592/2014)

The Panel has considered both these matters together especially as development application DA-592/2014 (extra floors) depends on modification application DA-509/2013/A being approved (extra parking). Both these applications build on the existing development consent approved by the JRPP for the site. The Panel is of the opinion that these matters should be adjourned to enable the RMS to be fully consulted about the total development of the site.

The LEP history is relevant to consider and the Panel notes that:

- a) Council's resolution to increase the height was in October 2013;
- b) The Planning Proposal for this was referred to the Department of Planning for Gateway determination after October 2014 (Draft LEP);
- c) The RMS raised concerns about the increased height on the site without further specified information;
- d) The Council then omitted the site from the Draft LEP;
- e) The omitted sites including this site has not been picked up in any new Draft LEP;
- f) Therefore the only support in the increase in height is the original resolution of Council in October 2013.

The Panel was advised that there is no current proposal to include this site in any planning proposal to increase the height controls.

This history indicates that the Council resolution would only be relevant as a policy which without further consideration, by at least the RMS, must be given little weight in the determination of these development applications, one of which

breaches the 18m height limit significantly. The previous comments from RMS included:

"... has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed."

The Panel is of the opinion that the traffic impacts raised by the RMS should be fully investigated and considered. The Panel notes the objective of clause 101 of SEPP (Infrastructure) to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads.

The Panel is of the opinion that the Council could not form the required satisfaction under clause 101(2) of the SEPP that safety, efficiency and ongoing operation of the classified road would not be adversely affected by the redevelopment as a result of the nature, volume or frequency of vehicles using the classified road to gain access to the land from the total development proposal for this site.

In addition the Panel is of the opinion that the Council cannot legally determine the development application until both the development application and the Section 96 modification application have been referred to RMS under clause 104 of the SEPP either because the DA/Section 96 (which relies on the existing consent) is for *new premises* under clause 104(1)(a) or they propose *an enlargement/extension of existing premises* under clause 104(1)(b). The Panel notes that the updated VARGA traffic report provided by the applicant has not been referred to the RMS and this can be part of the referral to the RMS. Finally the Panel notes there is a proposed condition (18) for intersection works at Elizabeth Street and Canterbury Road and the Panel questions if this should also be considered by and referred to the RMS.

The Panel also notes that it was not satisfied with the justification for a variation of the height under clause 4.6, particularly having regard to the requirements of clause 4.6(3)(a) (development standard is unreasonable and unnecessary and the circumstances) (b) (sufficient environmental planning grounds to justify contravening the development) especially having regard to the recent cases referred to in the report. The context for the Panel's position reflects that the proposal exceeds the height limit (of 18m) by some 25-30% and involves the addition of two further basement car parks and two further residential levels to an existing non-complying building.

Consequently the matter will not be submitted to the City Development Committee on 3 December 2015 as previously advised. Instead it will need to be re-considered at a future meeting of the Panel, and you will be advised in advance of that meeting.

The IHAP meeting report will be on the agenda for the City Development Committee meeting on 3 December 2015 and is available on our website (www.canterbury.nsw.gov.au) for your perusal.

Please contact Mine Kocak in City Planning on 9789 9482 for further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lia Chinnery', with a long horizontal flourish extending to the right.

Lia Chinnery
COORDINATOR GOVERNANCE

27 November 2015

150/548/D PART 3

Enquiries: Miné Kocak
Direct Phone: 9789 9482
Direct Fax: 9789 1542

Land Use Planning and Assessment Manager
NSW Roads and Maritime Services
Level 11, 27-31 Argyle Street
PARRAMATTA NSW 2150

Dear Sir/Madam,

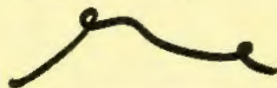
Property:	548-568 Canterbury Road Campsie
Development Description:	Section 96 modification to amend the layout and design of the basement car parking associated with an approved mixed use development.
Application Number:	DA-509/2013/A

We have received an application from Statewide Planning for the Section 96 modification to amend the layout and design of some units, and the basement car parking associated with an approved mixed use development.

If you wish to make any comments regarding this application please provide them within 21 days of the date of this letter.

If you should require any further information, please do not hesitate to contact me in City Planning, on 9789 9482 Monday to Friday.

Yours sincerely,



Miné Kocak
PLANNER

30 November 2015

RETURN

150/548D PT 3

Enquiries: Mine Kocak
Direct Phone: 9789 9482
Direct Fax: 9789 1542

Land Use Planning and Assessment Manager
NSW Roads and Maritime Services
Level 11, 27-31 Argyle Street
PARRAMATTA NSW 2150

Dear Sir/Madam,

Property:	548-568 Canterbury Road, Campsie
Development Description:	Additional two (2) levels to an approved six (6) storey mixed use development comprising an additional seventy (70) residential apartments
Application Number:	DA-592/2014

We have received an application from Statewide Planning for the Additional two (2) levels to an approved six (6) storey mixed use development comprising an additional seventy (70) residential apartments

If you wish to make any comments regarding this application please provide them within 21 days of the date of this letter.

If you should require any further information, please do not hesitate to contact me in City Planning, on 9789 9482 Monday to Friday.

Yours sincerely,



Miné Kocak
PLANNER

30 November 2015

548 Canterbury Rd DA

From: Spiro Stavis <spiros@canterbury.nsw.gov.au>
To: "Sammut, Andy" <andys@canterbury.nsw.gov.au>
Cc: "Sutcliffe, Andrea" <andreas@canterbury.nsw.gov.au>, "Rahme, Eva" <evar@canterbury.nsw.gov.au>, "Gouvatsos, George" <georgeg@canterbury.nsw.gov.au>, "Montague, Jim" <jmontague@canterbury.nsw.gov.au>, "Wheeler, Wendy" <wendyw@canterbury.nsw.gov.au>
Date: Mon, 30 Nov 2015 10:53:08 +1100
Attachments: IMAGE.jpg (27.08 kB); Spiro Stavis.vcf (322 bytes)

Andy,

The GM wants this DA to go to 3 December CDC meeting and asked for it to be circulated as a late item, notwithstanding IHAP's deferral request.

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 |

spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



Re: Fwd: 548 Canterbury Rd DA

From: Spiro Stavis <spiros@canterbury.nsw.gov.au>
To: "Montague, Jim" <jmontague@canterbury.nsw.gov.au>
Date: Mon, 30 Nov 2015 13:25:30 +1100
Attachments: IMAGE.jpg (27.08 kB); IMAGE.jpg (27.08 kB); Spiro Stavis.vcf (322 bytes)

Jim,

FYI, the DA was referred to RMS today. To overcome this issue I propose to provide you with a motion that can be moved off the floor or as a Memo from you to the Councillors recommending the following (or similar):

"Council is generally in support of the proposed development and delegates the determination of the DA to the GM once concurrence is obtained from the RMS".

I await your advice.

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 |

spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



>>> Andy Sammut 30/11/2015 1:19 PM >>>

Hi Jim

As per your instruction the report will be going to the 3 Dec CDC, but just so you are aware of Anthony Hudson's is of the opinion that it can't be determined without referral to RMS because as outlined more fully below:

... the DA/Section 96 (which relies on the existing consent) is for new premises under clause 104(1)(a) or they propose an enlargement/extension of existing premises under clause 104(1)(b).

Let me know if we can obtain any further information on this for you.

Andy

>>> Brad McPherson 30/11/2015 12:48 PM >>>

Hello Andy

The Lawyer from our IHAP, Anthony Hudson, said it would be illegal for Council to determine this application. An extract from the IHAP minutes is shown below.

"The Panel is of the opinion that the traffic impacts raised by the RMS should be fully investigated and considered. The Panel notes the objective of clause 101 of SEPP (Infrastructure) to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads.

The Panel is of the opinion that the Council could not form the required satisfaction under clause 101(2) of the SEPP that safety, efficiency and ongoing operation of the classified road would not be adversely affected by the redevelopment as a result of the nature, volume or frequency of vehicles using the classified road to gain access to the land from the total development proposal for this site.

In addition the Panel is of the opinion that the Council cannot legally determine the development application until both the development application and the Section 96 modification application have been referred to RMS under clause 104 of the SEPP either because the DA/Section 96 (which relies on the existing consent) is for new premises under clause 104(1)(a) or they propose an enlargement/extension of existing premises under clause 104(1)(b). The Panel notes that the updated VARGA traffic report provided by the applicant has not been referred to the RMS and this can be part of the referral to the RMS. Finally the Panel notes there is a proposed condition (18) for intersection works at Elizabeth Street and Canterbury Road and the Panel questions if this should also be considered by and referred to the RMS."

Regards

Brad

>>> Andy Sammut 30/11/2015 10:56 AM >>>

Hi Brad

E15-0078-037-0012-01

Please note instruction from GM re this item.

Andy

>>> Spiro Stavis 30/11/2015 10:53 AM >>>
Andy,

The GM wants this DA to go to 3 December CDC meeting and asked for it to be circulated as a late item, notwithstanding IHAP's deferral request.

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 |

spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



@BCL@940D8382

From: Spiros@canterbury.nsw.gov.au
Sent: 30/11/2015 4:48:08 PM
TO: Evar@canterbury.nsw.gov.au, JMontague@canterbury.nsw.gov.au
Subject: 548-568 Canterbury Rd Belmore (Harrison's DA/s96 applns) - Notice of Motion

Hi Jim,

Here is the commentary and motion for the Harrisons applications as discussed.

I refer to the Modification Application DA 509/2013 /A and DA 592/2014 for the development of the subject site which were considered by IHAP who resolved to defer the determination of the applications until we received the concurrence of the RMS.

The applications were not referred to the RMS as the original DA had been referred to RMS and their concurrence was received. The current applications are for developments that are below the RMS referral thresholds but exceed the threshold when considered cumulatively, as a whole development.

To avoid any doubt we have now referred the applications to the RMS and await their concurrence .

In order to avoid any delay, the Committee could approve the applications, in principle, and once the concurrence is received from the RMS the General Manager be given delegated authority to issue the consents based upon suitable conditions, as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.

The motion would be as follows;

THAT modification application DA 509/2013 /A and DA 592/2014, be approved in principle and once the suitable concurrence is received from the RMS the General Manager be authorised to issue the consents ,subject to the conditions as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 |
spiros@canterbury.nsw.gov.au (mailto:spiros@canterbury.nsw.gov.au) |
www.canterbury.nsw.gov.au



Memo

TO: The Mayor
All Councillors

DATE: 1 December 2015

SUBJECT: Late Items for City Development Committee meeting – 3 December 2015

Please find attached the following reports for the City Development Committee meeting to be held on 3 December 2015.

Independent Hearing and Assessment Panel

- Item 17: 548-568 Canterbury Road, Campsie: Modification to Approved Mixed Use Building Including Additional Basement Parking
- Item 18: 548-568 Canterbury Road, Campsie: Construction of Additional Two Levels to Approved Six Storey Mixed Use Building Comprising Additional Residential Apartments

Please note that the recommendation by the Director City Planning differs from that proposed by the Independent Hearing and Assessment Panel.

Please add the reports to your Standing Committees business paper.

Jim Montague PSM
GENERAL MANAGER

Andrew Hargreaves - Advice that DA-509/2013/A and 594/2014 for 548 Canterbury Road, Belmore will be considered at the City Development Committee meeting on Thursday 3 December 2015

From: Andrew Hargreaves
To: Andrew Hargreaves
Date: 1/12/2015 4:04 PM
Subject: Advice that DA-509/2013/A and 594/2014 for 548 Canterbury Road, Belmore will be considered at the City Development Committee meeting on Thursday 3 December 2015

Good afternoon,

We recently wrote to you about the two applications for 548 Canterbury Rd, DA-509/2013/A and DA-954/2014, being considered by our Independent Hearing and Assessment Panel. I am advising you today that these two applications will be considered by our City Development Committee on Thursday 3 December 2015. While you will be unable to address the Committee, having already been invited to address the Panel, you are welcome to attend the Committee meeting on Thursday evening.

Thank you and if you have any questions please contact either myself or Mine Kocak on 9789 9300.

Andrew Hargreaves | Team Leader - Development Assessment Operations

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9515 | andrewh@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



Chauntelle Mitchell - Memo - IHAP 23 November 2015, Item 3 and 4: 548-568 Canterbury Road, Campsie

From: Chauntelle Mitchell
To: Anthony Hudson; David Rollinson; Ian Garrard; Noni Ruker; Stacey Miers
Date: 1/12/2015 4:15 PM
Subject: Memo - IHAP 23 November 2015, Item 3 and 4: 548-568 Canterbury Road, Campsie
CC: Lia Chinnery
Attachments: Memo GM 1 December 2015 - IHAP.pdf

Dear Panel Members,

Please find attached a Memo in relation to 548-568 Canterbury Road, Campsie for your information.

Kind regards,

Chauntelle

Chauntelle Mitchell | Administration Officer - IHAP
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9446 | F: 9789 1542
chauntellem@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au





Memo

TO: The Mayor
All Councillors

DATE: 1 December 2015

SUBJECT: Late Items for City Development Committee meeting – 3 December 2015

Please find attached the following reports for the City Development Committee meeting to be held on 3 December 2015.

Independent Hearing and Assessment Panel

- Item 17: 548-568 Canterbury Road, Campsie: Modification to Approved Mixed Use Building Including Additional Basement Parking
- Item 18: 548-568 Canterbury Road, Campsie: Construction of Additional Two Levels to Approved Six Storey Mixed Use Building Comprising Additional Residential Apartments

Please note that the recommendation by the Director City Planning differs from that proposed by the Independent Hearing and Assessment Panel.

Please add the reports to your Standing Committees business paper.

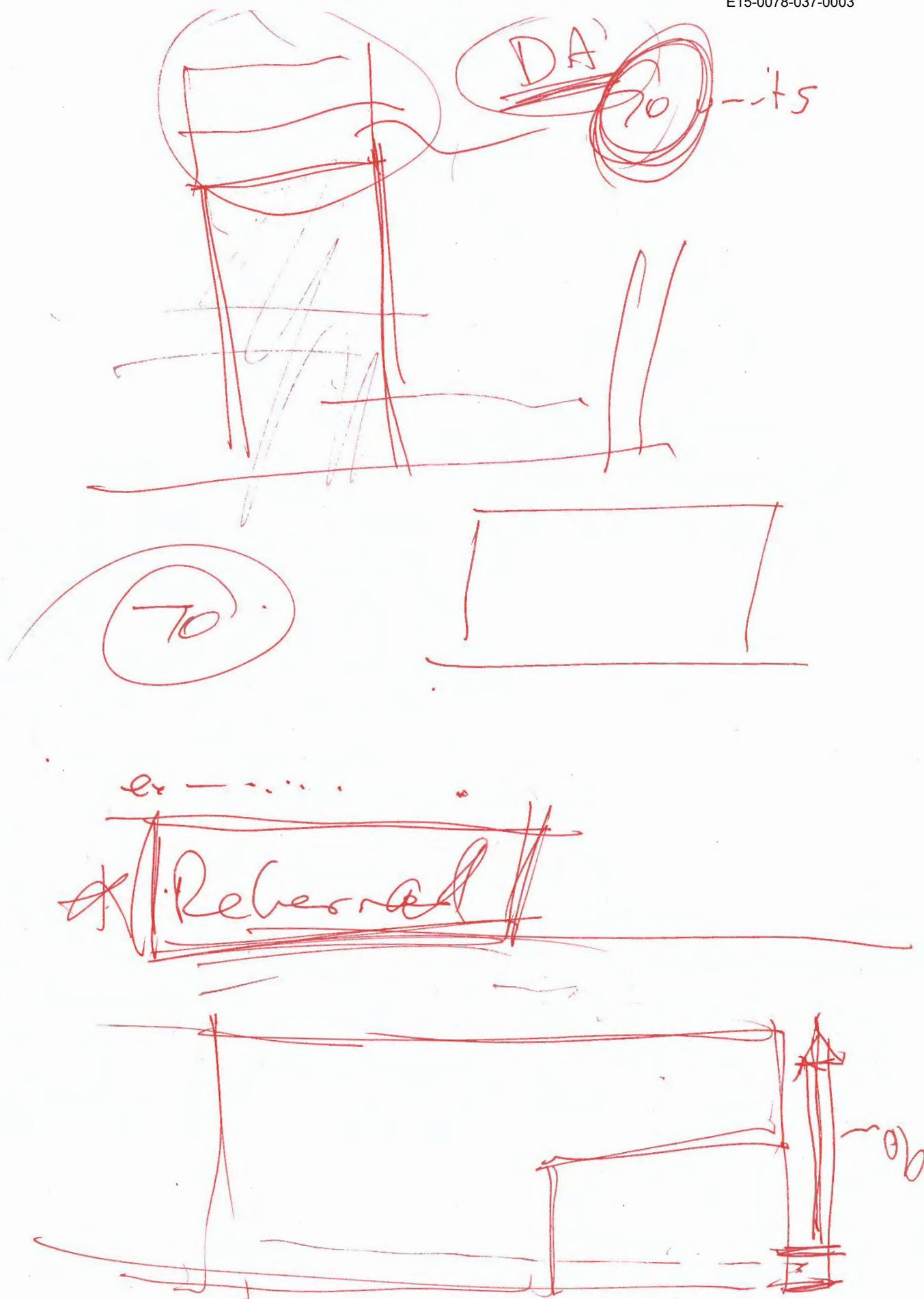
Jim Montague PSM
GENERAL MANAGER

**Meeting with Roads and Maritime Services Parramatta – 10am
Wednesday 2 December 2015**

**Traffic Impact Assessment – Canterbury Residential Development
Strategy Planning Proposal**

Agenda Items:

1. Introduction and purpose of the study (Council)
2. Overview of study (Traffix)
3. General RMS views
4. Right Turn Bans *No*
 - No TMP / Right turn from Cant. Rd into local Rd.
 - *shading*
 - Cost *no* key borne by each property owner. Works in *Canterbury*.
5. Intersection parking restrictions
 - *Feb '16* / *Mar '16* traffic committee / *Revised*
 - *response from RMS* / *endorsement* / *PP to*
 - *Plan NSW* / *for gateway*
6. Laneways
7. Traffic Light phasing – left turn arrow from Kingsgrove Road to Canterbury Road
 - *No issue from RMS.*
 - *10-20k cost*
8. Relationship of work with Sydenham- Bankstown Renewal Corridor / Campsie By-Pass
 - *RMS will support laneways*
 - *Levy for Priority Premises*
 - *no* / *timing certainty*
9. Timing of a formal response re Planning Proposals
10. Any other matters (including DA referrals)
 - *548 Canterbury Rd*
 - *212-220 Cant Rd*



548 Canterbury Rd,

From: Spiro Stavis <spiros@canterbury.nsw.gov.au>
To: "A, NICHOLSON Rachel" <rachel.nicholson@rms.nsw.gov.au>
Cc: "Hargreaves, Andrew" <andrewh@canterbury.nsw.gov.au>, "Rahme, Eva" <evah@canterbury.nsw.gov.au>, "Gouvatsos, George" <georgeg@canterbury.nsw.gov.au>, "M, TROTTER Gordon" <gordon.trotter@rms.nsw.gov.au>
Date: Wed, 02 Dec 2015 17:43:01 +1100

It's more critical to get comments for 548 Canterbury Rd, the others can follow after. Please I need this before close of business tmrw.

RMS have already provided comments for this development previously. This DA is for alts/adds to add 2 extra floors to accommodate 70 extra units.

Please Rachel.

Regards

Spiro Stavis | Director City Planning
City of Canterbury [137 Beamish St Campsie NSW 2194](#)
T: [9789 9487](tel:97899487) | **F:** [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 2 Dec 2015, at 5:18 PM, NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:

Hi Spiro

As discussed today, I've had a look at the subject DAs and am drafting responses now. I will have to wait for comments from our Property section before finalising our responses however. Their comments can be critical. They typically require at least two weeks to comment, however we did mark this referral as urgent.

Kind regards

Rachel Nicholson
A/Senior Land Use Planner
Network Management | Journey Management
T 02 8849 2702 | F 02 8849 2918
www.rms.nsw.gov.au

Roads and Maritime Services
Level 7 27 Argyle Street Parramatta NSW 2150

From: Spiro Stavis [<mailto:spiros@canterbury.nsw.gov.au>]
Sent: Friday, 27 November 2015 10:09 PM
To: NICHOLSON Rachel A
Cc: Andrewh@canterbury.nsw.gov.au; Georgeg@canterbury.nsw.gov.au; Eva Rahme
Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)

Hi Rachel

Just touching base to see when I can expect your comments?

Regards

Spiro Stavis | Director City Planning
City of Canterbury [137 Beamish St Campsie NSW 2194](#)
T: [9789 9487](tel:97899487) | **F:** [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 26 Nov 2015, at 8:25 AM, NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:

Hi Spiro/Andrew

Can you please send the DA documentation through to development.sydney@rms.nsw.gov.au, and 'cc' myself. This will help avoid further delay in the registration process. I've asked our admin staff to create a file now to minimise delays.

Thanks
Rachel

Rachel Nicholson
A/Senior Land Use Planner
Network Management | Journey Management
T 02 8849 2702 | F 02 8849 2918
www.rms.nsw.gov.au

Roads and Maritime Services
Level 7 27 Argyle Street Parramatta NSW 2150

From: Spiro Stavris [<mailto:spiros@canterbury.nsw.gov.au>]
Sent: Thursday, 26 November 2015 7:20 AM
To: Andrewh@canterbury.nsw.gov.au
Cc: Eva Rahme; NICHOLSON Rachel A; Georgeg@canterbury.nsw.gov.au
Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)

Andrew

Please email Rachel a package this morning. Very critical. Chase the applicant Jacob from CD design if you need anything.

Regards

Spiro Stavris | Director City Planning
City of Canterbury [137 Beamish St Campsie NSW 2194](http://137BeamishStCampsieNSW2194)
T: [9789 9487](tel:97899487) | **F:** [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 25 Nov 2015, at 10:36 PM, Spiro Stavris <spiros@canterbury.nsw.gov.au> wrote:

Hi Rachel,

I left a phone message for you today and spoke to James Hall.

I need an URGENT favour regarding this matter.

My staff have not referred these applns to RMS for concurrence and these DAs have been placed on Councils agenda to be determined on the 3 December 2015 council meeting. They are both recommended for approval.

The proposals are for the construction of 2 multi level mixed commercial residential buildings which share a common driveway to basement level parking accessed from Close St which is located within 90m from Canterbury Rd.

Is there any way you can please provide concurrence before the 3 December 2015 subject to conditions even if they are deferred commencement conditions. As I said, these DAs are scheduled to be determined on 3 December 2015.

I am happy to come to see you on Friday to brief you if it will assist.

I would not ordinarily ask, however, the matter is extremely urgent and your assistance would be greatly appreciated.

I apologise for any inconvenience caused.

Regards

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

Begin forwarded message:

From: "Spiro Stavis" <Spiros@canterbury.nsw.gov.au>
Date: 25 November 2015 at 2:35:39 PM AEDT
To: jim.tsirimiagos@transport.nsw.gov.au
Subject: 212-218 Canterbury Rd, Canterbury (DA 168/2015)

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 |
spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 |
spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

<mime-attachment>

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 |
spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

<mime-attachment>

<212-218 Canterbury Rd, Canterbury, Stop the Clock Letter- 3-7-15.pdf>
<Spiro Stavis.vcf>



Before printing, please consider the environment

IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.



Before printing, please consider the environment

IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.



@BCL@9C0BC9AE

From: Spiros@canterbury.nsw.gov.au

Sent: 2/12/2015 10:24:45 PM

TO:

Evar@canterbury.nsw.gov.au, Gordon.Trotter@rms.nsw.gov.au, Rachel.NICHOLSON@rms.nsw.gov.au

Subject: Fwd: 548 Canterbury Rd,

Gordon

I refer to the email exchange below. The purpose of my email is to commend Rachel's exceptional efforts and willingness to assist in expediting this matter.

By way of history, the RMS provided its approval to a DA for a 6 storey mixed use development on this site last year. The approval has not been activated but is still valid.

This DA amends the previous approval by adding 2 extra floors to accommodate 70 extra units, and from a traffic point of view, the applicants traffic consultant including councils traffic engineer believe the amendments are satisfactory.

As you know, the DA is being considered at a council meeting tomorrow night and therefore RMS's advice prior to this meeting would be greatly appreciated..

I am willing to provide you with any resources to assist you if required.

Please call me tomorrow to discuss.

Regards

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |

www.canterbury.nsw.gov.au

Sent from my iPhone

Begin forwarded message:

> From: "Spiro Stavis" <spiros@canterbury.nsw.gov.au>
 > Date: 2 December 2015 at 5:43:08 PM AEDT
 > To: NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au>
 > Cc: "Andrewh@canterbury.nsw.gov.au" <Andrewh@canterbury.nsw.gov.au>, "Georgeg@canterbury.nsw.gov.au" <Georgeg@canterbury.nsw.gov.au>, Eva Rahme <Evar@canterbury.nsw.gov.au>, TROTTER Gordon M <Gordon.Trotter@rms.nsw.gov.au>
 > Subject: 548 Canterbury Rd,
 >
 > It's more critical to get comments for 548 Canterbury Rd, the others can follow after. Please I need this before close of business tmrw.
 >
 > RMS have already provided comments for this development previously. This DA is for alts/adds to add 2 extra floors to accommodate 70 extra units.
 >
 > Please Rachel.
 >
 > Regards
 >
 > Spiro Stavis | Director City Planning
 > City of Canterbury 137 Beamish St Campsie NSW 2194
 > T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |
 > www.canterbury.nsw.gov.au
 >
 > Sent from my iPhone
 >
 >> On 2 Dec 2015, at 5:18 PM, NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:
 >>
 >> Hi Spiro

@BCL@9C0BC9AE

>>
 >> As discussed today, I've had a look at the subject DAs and am drafting responses now. I will have to wait for comments from our Property section before finalising our responses however. Their comments can be critical. They typically require at least two weeks to comment, however we did mark this referral as urgent.
 >>
 >> Kind regards
 >>
 >> Rachel Nicholson
 >> A/Senior Land Use Planner
 >> Network Management | Journey Management
 >> T 02 8849 2702 | F 02 8849 2918
 >> www.rms.nsw.gov.au
 >>
 >> Roads and Maritime Services
 >> Level 7 27 Argyle Street Parramatta NSW 2150
 >>
 >> From: Spiro Stavis [mailto:spiros@canterbury.nsw.gov.au]
 >> Sent: Friday, 27 November 2015 10:09 PM
 >> To: NICHOLSON Rachel A
 >> Cc: Andrewh@canterbury.nsw.gov.au; Georgeg@canterbury.nsw.gov.au; Eva Rahme
 >> Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)
 >>
 >> Hi Rachel
 >>
 >> Just touching base to see when I can expect your comments?
 >>
 >> Regards
 >>
 >> Spiro Stavis | Director City Planning
 >> City of Canterbury 137 Beamish St Campsie NSW 2194
 >> T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |
 >> www.canterbury.nsw.gov.au
 >>
 >> Sent from my iPhone
 >>
 >> On 26 Nov 2015, at 8:25 AM, NICHOLSON Rachel A
 >> <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:
 >>
 >> Hi Spiro/Andrew
 >>
 >> Can you please send the DA documentation through to
 >> development.sydney@rms.nsw.gov.au, and 'cc' myself. This will help avoid further
 >> delay in the registration process. I've asked our admin staff to create a file
 >> now to minimise delays.
 >>
 >> Thanks
 >> Rachel
 >>
 >> Rachel Nicholson
 >> A/Senior Land Use Planner
 >> Network Management | Journey Management
 >> T 02 8849 2702 | F 02 8849 2918
 >> www.rms.nsw.gov.au
 >>
 >> Roads and Maritime Services
 >> Level 7 27 Argyle Street Parramatta NSW 2150
 >>
 >> From: Spiro Stavis [mailto:spiros@canterbury.nsw.gov.au]
 >> Sent: Thursday, 26 November 2015 7:20 AM
 >> To: Andrewh@canterbury.nsw.gov.au
 >> Cc: Eva Rahme; NICHOLSON Rachel A; Georgeg@canterbury.nsw.gov.au
 >> Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)
 >>
 >> Andrew

@BCL@9C0BC9AE

>>
>> Please email Rachel a package this morning. Very critical. Chase the applicant Jacob from CD design if you need anything.
>>
>> Regards
>>
>> Spiro Stavis | Director City Planning
>> City of Canterbury 137 Beamish St Campsie NSW 2194
>> T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |
www.canterbury.nsw.gov.au
>>
>> Sent from my iPhone
>>
>> On 25 Nov 2015, at 10:36 PM, Spiro Stavis <spiros@canterbury.nsw.gov.au> wrote:
>>
>> Hi Rachel,
>>
>> I left a phone message for you today and spoke to James Hall.
>>
>> I need an URGENT favour regarding this matter.
>>
>> My staff have not referred these applns to RMS for concurrence and these DAS have been placed on Councils agenda to be determined on the 3 December 2015 council meeting. They are both recommended for approval.
>>
>> The proposals are for the construction of 2 multi level mixed commercial residential buildings which share a common driveway to basement level parking accessed from Close St which is located within 90m from Canterbury Rd.
>>
>>
>>
>> Is there any way you can please provide concurrence before the 3 December 2015 subject to conditions even if they are deferred commencement conditions. As I said, these DAS are scheduled to be determined on 3 December 2015.
>>
>> I am happy to come to see you on Friday to brief you if it will assist.
>>
>>
>>
>> I would not ordinarily ask, however, the matter is extremely urgent and your assistance would be greatly appreciated.
>>
>> I apologise for any inconvenience caused.
>>
>> Regards
>>
>> Spiro Stavis | Director City Planning
>> City of Canterbury 137 Beamish St Campsie NSW 2194
>> T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |
www.canterbury.nsw.gov.au
>>
>> Sent from my iPhone
>>
>> Begin forwarded message:
>>
>>
>>
>> From: "Spiro Stavis" <spiros@canterbury.nsw.gov.au>
>> Date: 25 November 2015 at 2:35:39 PM AEDT
>> To: jim.tsirimiagos@transport.nsw.gov.au
>> Subject: 212-218 Canterbury Rd, Canterbury (DA 168/2015)
>>
>>
>>
>>
>>
>>

@BCL@9C0BC9AE

>>
>> Spiro Stavis | Director City Planning
>> City of Canterbury 137 Beamish St Campsie NSW 2194
>> T: 9789 9487 | F: 9789 1542 |
>> spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au
>>
>>
>>
>>
>>
>>
>> Spiro Stavis | Director City Planning
>> City of Canterbury 137 Beamish St Campsie NSW 2194
>> T: 9789 9487 | F: 9789 1542 |
>> spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au
>>
>>
>>
>>
>> <mime-attachment>
>>
>>
>>
>>
>> Spiro Stavis | Director City Planning
>> City of Canterbury 137 Beamish St Campsie NSW 2194
>> T: 9789 9487 | F: 9789 1542 |
>> spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au
>>
>> <mime-attachment>
>>
>>
>>
>> <212-218 Canterbury Rd,Canterbury, Stop the Clock Letter- 3-7-15.pdf>
>> <Spiro Stavis.vcf>
>>
>>
>> Before printing, please consider the environment
>>
>> IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.
>>
>>
>>
>>
>>
>> Before printing, please consider the environment
>>
>> IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended

recipient.
>>

@BCL@9C0BC9AE



City of Canterbury

City of Cultural Diversity

BUSINESS PAPER

Meeting of

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

Canterbury City – a great place to live and work

TABLE OF CONTENTS

Chairperson: Councillor Adler
Deputy Chairperson: Councillor Hawatt

ITEM	SUBJECT	PAGE NO
GENERAL		
1	DEVELOPMENT APPLICATIONS DETERMINED BY COUNCIL OFFICERS UNDER DELEGATION	17
2	TRAFFIC IMPACT ASSESSMENT STUDY - RESIDENTIAL DEVELOPMENT STRATEGY PLANNING PROPOSAL	20
CENTRAL WARD		
3	510-514 BURWOOD ROAD, BELMORE: DEMOLITION, CONSTRUCTION OF MIXED RESIDENTIAL/COMMERCIAL DEVELOPMENT WITH BASEMENT PARKING AND ASSOCIATED SUBDIVISION.....	37
EAST WARD		
4	19 STONE STREET, EARLWOOD: MODIFICATION TO AN APPROVED SEMI DETACHED TWO STOREY DWELLING	81
5	19A STONE STREET, EARLWOOD: MODIFICATION TO AN APPROVED SEMI DETACHED TWO STOREY DWELLING	90
WEST WARD		
6	82 BROADWAY, PUNCHBOWL: CONSTRUCTION OF SECONDARY DWELLING.....	99
7	63 NELSON AVENUE, BELMORE: DEMOLITION, CONSTRUCTION OF TWO STOREY DETACHED DUAL OCCUPANCY, FENCES AND ASSOCIATED SUBDIVISION.....	112
8	31 PENSHURST ROAD, ROSELANDS: DEMOLITION, CONSTRUCTION OF DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION.....	130
9	39-41 SHADFORTH STREET, WILEY PARK: DEMOLITION, CONSOLIDATION OF LOTS AND CONSTRUCTION OF RESIDENTIAL BUILDING WITH BASEMENT PARKING.....	147

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

IHAP ITEMS

10	INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015	176
11	388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS	184
12	18-22 NORTHCOTE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING DEVELOPMENT, FRONT FENCE AND BASEMENT PARKING	222
13	INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 24 NOVEMBER 2015	258
14	212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS.....	268
15	220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK.....	338
16	308-320 CANTERBURY ROAD AND 6-8 CANTON STREET, CANTERBURY: DEVELOPMENT APPLICATION FOR THE CONSTRUCTION OF ADDITIONAL LEVELS ON APPROVED MIXED USE DEVELOPMENT AND MODIFICATION APPLICATION TO PROVIDE ADDITIONAL BASEMENT PARKING	411
17	548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING.....	471
18	548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS	485

This meeting will be recorded on audio tape for minute-taking purposes
as authorised by the Local Government Act 1993.

REPORT SUMMARIES

1 DEVELOPMENT APPLICATIONS DETERMINED BY COUNCIL OFFICERS UNDER DELEGATION

The development applications listed in this report were determined by Council Officers, in accordance with the powers delegated to them under the Act. The report is submitted for the Committee's information.

2 TRAFFIC IMPACT ASSESSMENT STUDY - RESIDENTIAL DEVELOPMENT STRATEGY PLANNING PROPOSAL

- The Residential Development Strategy (RDS) Planning Proposal to amend Canterbury Local Environmental Plan 2012 (CLEP 2012) was placed on public exhibition from 10 June 2014 until 11 July 2014.
- This arose from a resolution of the Extraordinary Council Meeting on 31 October 2013 where a report on a Residential Development Strategy for Canterbury was considered.
- Roads and Maritime Services (RMS) made a submission during the exhibition period, which amongst other things, requested that traffic impact studies be prepared for certain sites before being further considered.
- Council resolved on 2 October 2014 for the most part to progress the Planning Proposal in relation to the sites identified in the RMS submission.
- However Council subsequently was advised by the Department of Planning and Environment that it regarded the RMS submission as an unresolved agency objection, and that the sites identified in the submission could not be progressed until the issues raised in the submission were resolved.
- The consultant Traffix was commissioned to undertake a traffic study to assess the traffic implications of the Planning Proposal.
- A final draft of the study has now been received. It is being reported to show the potential implications of the study, and to gain endorsement for future discussions with RMS.
- The study concludes that a satisfactory traffic outcome can occur subject to a number of recommendations which are outlined in detail in this report. In summary these consist of no right turn bans at all unsignalised intersections on Canterbury Road within the study area, improvements to the Sharp Street / Canterbury Road / Kingsgrove Road intersection, and creation of new laneways and widening of existing laneways.
- It is recommended that Council endorse this study for further discussion with RMS with a view to progressing a new planning proposal(s) for:
 - 677-687 Canterbury Road and 48 Drummond Street, Belmore, and 642-658 Canterbury Road and 2, 2B and part 2C-2D Liberty Street, Belmore
 - Land bounded by Canterbury Road, Thompson Lane, Wilson Lane and Chapel Road, Belmore
 - Land bounded by Canterbury Road, Stanley Street, Perry Street and Una Street, Campsie; and 403-411 Canterbury Road and 1 Una Street, Campsie

- 548-568 Canterbury Road, Campsie
- 130 Croydon Street and 276-278 Haldon Street, Lakemba
- 844-854 Canterbury Road, Roselands
- 1112-1186 Canterbury Road, Roselands
- 1375 Canterbury Road, Punchbowl.

3 510-514 BURWOOD ROAD, BELMORE: DEMOLITION, CONSTRUCTION OF MIXED RESIDENTIAL/COMMERCIAL DEVELOPMENT WITH BASEMENT PARKING AND ASSOCIATED SUBDIVISION

- This matter was deferred by the City Development Committee on 12 November 2015 for consideration at its next meeting.
- The proposal seeks consent for the demolition of existing structures and the construction of a six storey mixed use development comprising two basement level parking areas, ground level commercial, and five levels of residential units above, with associated subdivision under Strata Title.
- The application is reported to the Independent Hearing and Assessment Panel as it involves the construction of a building that is of four or more storeys.
- The subject site is zoned B2 – Local Centre under the Canterbury Local Environmental Plan 2012 (CLEP 2012), and the proposed development is permissible with Council consent.
- The proposal has been assessed under State Environmental Planning Policy 65 (SEPP65), Canterbury Local Environmental Plan 2012 (CLEP 2012), Canterbury Development Control Plan 2012 (CDCP 2012), and other applicable codes and policies. The proposal is found to generally be in compliance with the requirements of these policies, with the exception of building height, building setbacks and separation. These non-compliances are discussed in further detail in the body of this report.
- The proposal has been notified and advertised in accordance with the provisions of Part 7 of CDCP 2012 and four submissions have been received regarding the development. The submissions have been addressed in detail in the body of this report.
- A letter was received by the school's solicitor raising concerns about the permissibility and reasonableness of dealing with the variation to the floor space.
- The Director City Planning has recommended the application be approved subject to conditions.
- The Independent Hearing and Assessment Panel has recommended the application be approved in accordance with the Director City Planning's recommendation, subject to amendments.

4 19 STONE STREET, EARLWOOD: MODIFICATION TO AN APPROVED SEMI DETACHED TWO STOREY DWELLING

- This application is for the modification to front facade, reduce rear setback for the ground floor, extend the basement floor in the front to include a storage area, minor changes to the layout and elevations of an approved semi-detached two storey dwelling at 19 Stone Street (Lot 118). A separate application (DA-65/2015/A) has been lodged together with this application for 19A Stone Street, Earlwood (Lot 119) which is the subject of a separate report.
- The Section 96(1A) application is referred to the City Development Committee for determination due to the variation to the floor space ratio, which is beyond our delegation. The non-compliance is discussed in the body of the report.
- The site is zoned R3 Medium Density Residential under the provisions of Canterbury Local Environmental Plan 2012, and is permissible with Council consent.
- The development application has been assessed and found to satisfy the relevant requirements of the Canterbury Development Control Plan 2012 except for the side setback requirement for the unroofed light well. The non-compliance is discussed in the body of the report.
- The development application was notified in accordance with Part 7 of Canterbury Development Control Plan 2012 with no submissions received.
- It is recommended the application be approved subject to conditions.

5 19A STONE STREET, EARLWOOD: MODIFICATION TO AN APPROVED SEMI DETACHED TWO STOREY DWELLING

- This application is for the modification to front facade, reduce rear setback for the ground floor, extend the basement floor in the front to include a storage area, minor changes to the layout and elevations of an approved semi-detached two storey dwelling at 19a Stone Street (Lot 119). A separate application (DA-64/2015/A) has been lodged together with this application for 19 Stone Street, Earlwood (Lot 118) which is the subject of a separate report.
- The Section 96(1A) application is referred to the City Development Committee for determination due to the variation to the floor space ratio, which is beyond our delegation. The non-compliance is discussed in the body of the report.
- The site is zoned R3 Medium Density Residential under the provisions of Canterbury Local Environmental Plan 2012, and is permissible with Council consent.
- The development application has been assessed and found to satisfy the relevant requirements of the Canterbury Development Control Plan 2012 except for the side setback requirement for the unroofed light well. The non-compliance is discussed in the body of the report.
- The development application was notified in accordance with Part 7 of Canterbury Development Control Plan 2012 with no submissions received.
- It is recommended the application be approved subject to conditions.

6 82 BROADWAY, PUNCHBOWL: CONSTRUCTION OF SECONDARY DWELLING

- An application has been received for the construction of a new secondary dwelling at the rear of the site.
- This application has been referred to the City Development Committee because of a non-compliance to the minimum frontage control (12m required, 10.06m proposed 16% variation) which exceeds the delegated powers of Council staff.
- The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012. The proposed development is permissible pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The application has been assessed against the relevant environmental planning instruments and development control plan and seeks variations in regard to minimum site width. This issue of non-compliance is discussed in the body of this report.
- In accordance with our notification policy, all owners and occupiers of adjoining properties were notified of the proposed development.
- It is recommended that the development application be approved, subject to conditions.

7 63 NELSON AVENUE, BELMORE: DEMOLITION, CONSTRUCTION OF TWO STOREY DETACHED DUAL OCCUPANCY, FENCES AND ASSOCIATED SUBDIVISION

- A Development Application has been received for the demolition of existing structures and construction of an attached dual occupancy including fencing with Torrens title subdivision.
- The proposal relates to a 'dual occupancy' use which is permissible with Council consent within Zone R3 Medium Density Residential under Canterbury Local Environmental Plan 2012.
- The proposed development does not comply with Part 2.1.7(xx) of CDCP 2012 - Rear Setback. (5.080m is proposed, 6 metres required). The variation is beyond our Officer's delegation and therefore the DA is referred to City Development Committee for determination.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, Canterbury Local Environmental Plan 2012 (CLEP 2012), Canterbury Development Control Plan 2012 (CDCP 2012) and other relevant codes and policy controls.
- In accordance with Part 7 of the CDCP 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended the application be approved subject to conditions.

8 31 PENSHURST ROAD, ROSELANDS: DEMOLITION, CONSTRUCTION OF DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION

- A Development Application has been received for the demolition of existing structures and construction of an attached dual occupancy with Torrens title subdivision.
- The proposal relates to a ‘dual occupancy’ use which is permissible with Council consent within Zone R3 Medium Density Residential under Canterbury Local Environmental Plan 2012.
- The proposed development involves non-compliances with two controls in Canterbury Development Control Plan 2012, with respect to the Part 2.1.3 of CDCP 2012 – Cut and Fill and Part 2.1.5 of CDCP 2012 – Depth/Footprint. This is discussed in the body of the report. Both variations are beyond our Officer’s delegation. Therefore the DA is referred to City Development Committee for determination.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, Canterbury Local Environmental Plan 2012 (CLEP 2012), Canterbury Development Control Plan 2012 (CDCP 2012) and other relevant codes and policy controls.
- In accordance with Part 7 of the CDCP 2012, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended the application be approved subject to conditions.

9 39-41 SHADFORTH STREET, WILEY PARK: DEMOLITION, CONSOLIDATION OF LOTS AND CONSTRUCTION OF RESIDENTIAL BUILDING WITH BASEMENT PARKING

- The applicant is seeking approval to demolish existing structures, consolidate two lots into one and construct a three storey, residential flat building, comprising 14 residential apartments, one level of basement parking providing 20 parking spaces and associated landscaping.
- The application has been referred to City Development Committee for determination as the proposal seeks a variation to the building deep soil zones and private open space dimensions for residential flat buildings, which falls outside the delegations of Council officers.
- The site is zoned R4 High Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposed development, defined as a ‘residential flat building’ is permissible with consent.
- The development application has been assessed against the provisions contained in the relevant environmental planning instruments and development control plan. The proposal is found to generally be in compliance with the requirements of these policies, with the exception of the apartment size, building depth, deep soil and private open space dimensions. These non-compliances are discussed in further detail in the body of this report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012. No submissions were received during this period.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

- It is recommended the application be approved subject to conditions.

10 INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015

- The report of the Independent Hearing and Assessment Panel (IHAP) is submitted for the Committee's information.
- The Panel's assessment and recommendation also appears in each of the respective City Development Committee reports considered by IHAP included in this business paper.
- It is recommended the report be noted.

11 388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS

- The proposal seeks consent to demolish existing structures and construct a six storey mixed use development (residential and commercial/retail premises) comprising three ground floor commercial units, 57 residential units, and two levels of basement car parking.
- The application has been referred to IHAP for consideration as the application is for a mixed use development involving a building that is of four or more storeys and more than 20 residential apartments.
- The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012) and is identified as a key site. The proposed development, defined as a mixed use development, is permissible in the subject zone.
- The development application has been assessed against the provisions contained in the relevant environmental planning instruments and development control plan. The proposal is found to generally be in compliance with the requirements of these policies, with the exception of building height, building setbacks, building separation and apartment size. These non-compliances are discussed in further detail in the body of this report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012 on two occasions. The first notification period ended on 17 September 2014 and five submissions were received. The second notification period ended on 14 October 2015 and no submissions were received.
- The Director City Planning has recommended the application be approved subject to conditions.
- The Independent Hearing and Assessment Panel has recommended the application be approved in accordance with the Director City Planning's recommendation, subject to amendments.

12 18-22 NORTHCOTE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING DEVELOPMENT, FRONT FENCE AND BASEMENT PARKING

- A Development Application has been received for demolition of the existing site structures and construction of a multi dwelling housing development comprising 13 townhouses, front fence and basement level car park.
- The proposal has been significantly amended including a reduction of the total number of dwellings on the site from 21 to 13, redesign of the basement car park and the floor plates of the townhouses along the rear of the site.
- The application is reported to the Independent Hearing and Assessment Panel (IHAP) and ultimately to the City Development Committee for consideration and determination due to the number of submissions received objecting to the proposed development.
- The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). Multi dwelling housing is a permissible form of development in this zone with our consent.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposed development involves non-compliances with some of these controls. Issues of non-compliance are discussed in the body of the report.
- The application was publicly exhibited and all adjoining properties were notified in accordance with the requirements of CDCP 2012. The application has been notified on two separate occasions. During the first notification period which related to the original design involving the retention of the existing residential flat building and construction of fifteen dwellings, we received 11 submissions, all objecting to the proposed development.
- In October 2015 the overall design was substantially revised including a reduction in the number of new dwellings from 15 to 13 and the removal of the existing residential flat building at 18 Northcote Street which comprised six dwellings.
The dwellings along the rear property boundary were also redesigned to one storey with the upper level components that face the rear boundary incorporated into the roof space. These amendments were renotified in October 2015 during which time a pro-forma petition with 74 signatures and four individual submissions objecting to the proposed development were received. Issues of concern related to the proposed development include overdevelopment of the site and not consistent with the local character, streetscape and design issues, amenity issues, traffic and parking issues, loss of privacy, non-compliance with Council development controls, decrease in property values, stormwater disposal, noise pollution and construction issues. These issues are discussed in the body of this report.
- The Director City Planning has recommended the application be approved subject to conditions.
- The Independent Hearing and Assessment Panel has recommended the application be approved in accordance with the Director City Planning's recommendation, subject to amendments.

13 INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 24 NOVEMBER 2015

- The report of the Independent Hearing and Assessment Panel (IHAP) is submitted for the Committee's information.
- The Panel's assessment and recommendation also appears in each of the respective City Development Committee reports considered by IHAP included in this business paper.
- It is recommended the report be noted.

14 212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENNANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd, on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a nine storey mixed use building comprising six commercial tenancies, 88 residential apartments, three levels of basement parking for 91 vehicles and a public plaza area of 304m² attached to the proposed development on the adjoining site.
- The proposed development forms Stage 2 of larger development, with Stage 1 proposed on the adjoining site at 220-222 Canterbury Road and 4 Close Street, Canterbury.
- The proposal has a capital investment value of \$18,919,800 and is therefore to be determined by Council.
- The subject site is zoned B2 – Local Centre under Canterbury Local Environmental Plan 2012. The proposed development is defined as 'shop top housing', and 'commercial premises' which are permissible uses in the Local Centre B2 zone subject to consent.
- The development application has been assessed against the relevant State and Local Instruments and Planning Policies. Apart from the height and floor space ratio the application is generally compliant, however there are non-compliances which are discussed in the body of this report.
- The proposed development does not comply with the maximum floor space ratio and height standard applicable to the site under Canterbury Local Environmental Plan 2012 (CLEP 2012). Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the application has justified the proposal in accordance with Clause 4.6 of the CLEP 2012.
- The development application was publicly exhibited and adjoining land owners notified in accordance with the requirements of Canterbury Development Control Plan 2012. The application was notified between 15 May 2015 and 18 June 2015. Three submissions were received raising issues regarding infrastructure, solar access and general overdevelopment.

- Subject to compliance with deferred commencement conditions, it is considered that the proposed development has been designed appropriately given the characteristics of the site and the applicable planning controls, and is unlikely to result in unreasonable impacts on the character or amenity of the surrounding area.
- The application is recommended for approval subject to conditions, including the following deferred commencement conditions:
 - i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint).
 - ii. Submission of amended plans addressing matters outlined in Sydney Trains letter of 3 July 2015.
 - iii. Receipt of concurrence from Sydney Trains subject to (ii) above.
- The Independent Hearing and Assessment Panel has recommended the application be refused.

**15 220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY:
DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY
MIXED USE DEVELOPMENT OVER BASEMENT CARPARK**

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd) on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a part seven and part nine storey mixed use building comprising five commercial tenancies, 84 residential apartments, three levels of basement parking for 94 vehicles and a public plaza area of 266m² attached to the proposed development on the adjoining site.
- The proposed development forms Stage 1 of a larger development, with Stage 2 proposed on the adjoining site at 212-218 Canterbury Road.
- The proposal has a capital investment value of \$18,266,200 and is therefore to be determined by Council.
- The subject site is zoned B2 – Local Centre under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposed development is defined as ‘shop top housing’, and ‘commercial premises’ which are permissible uses in the Local Centre B2 zone subject to consent.
- The development application has been assessed against the relevant State and Local Instruments and Planning Policies. Apart from the height and FSR the application is generally compliant with these requirements however there are issues of non-compliance as discussed in the body of the report
- The proposed development does not comply with the maximum floor space ratio and height standard applicable to the site under CLEP 2012. Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the applicant has justified the proposal in accordance with Clause 4.6 of CLEP 2012.

- The development application was publicly exhibited and adjoining land owners notified in accordance with the requirements of Canterbury Development Control Plan 2012. The application was notified between 15 May 2015 and 18 June 2015. four submissions were received.
- Subject to compliance with deferred commencement conditions it is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area. The development application is recommended for approval subject to conditions
- The application is recommended that Deferred Commencement Consent subject to the following conditions:
 - i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint).
 - ii. Submissions of amended plans showing potential future basement link through to 224 Canterbury Road, and necessary rights of access implemented.
- The Independent Hearing and Assessment Panel has recommended the application be refused.

16 308-320 CANTERBURY ROAD AND 6-8 CANTON STREET, CANTERBURY: DEVELOPMENT APPLICATION FOR THE CONSTRUCTION OF ADDITIONAL LEVELS ON APPROVED MIXED USE DEVELOPMENT AND MODIFICATION APPLICATION TO PROVIDE ADDITIONAL BASEMENT PARKING

- The applicant has lodged a development application (DA) and corresponding Section 96 application to carry out alterations and additions to the approved development. Both applications have been assessed concurrently and the report prepared by an independent external planning consultant (DFP Planning Pty Ltd) on behalf of Council. The details of each application are discussed below.
- The subject development was determined by way of approval by the Sydney East Joint Regional Planning Panel (Development Application 405/2013) for a mixed use development at 308-310 Canterbury Road, 312-320 Canterbury Road and 6-8 Canton Street, Canterbury on 19 February 2014 which included the construction of a five storey mixed use development comprising ground floor commercial, 126 units and eight town houses including basement car parking. Demolition of the existing buildings has commenced on site.
- The site is known as 308-320 Canterbury Road and 6-8 Canton Street, Canterbury and is zoned B5 Business Development and Residential R4 under Canterbury Local Environmental plan 2012 (CLEP 2012). The site is identified as “A” on the Key Sites Map, and such development for the purposes of residential accommodation is permitted with consent but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of mixed use development. This use is permissible in the subject zone.

- The applications have been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55- Remediation of Land (SEPP 65), State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The existing development was approved with a number of minor variations to the SEPP 65 and DCP 2012 and accordingly it is necessary to have regard to the existing approval. The proposal is found to make a number of improvements to the existing approval in terms of building separation and cross ventilation. The application is found to generally comply with the requirements of these policies with the exception of building height.
- The Development Application DA-604/2014 proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, by a maximum of 15 metres. The application is supported by a written request prepared by the applicant under Clause 4.6 of CLEP 2012 to vary the height development standard.
- The Development Application DA-604/2014 was publically exhibited twice and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. The first notification period closed on 10 February 2015 and we received submissions from fourteen households, and the second notification (exhibition of the amended plans) period closed on 2 November 2015 and we received submissions from six households. Issues raised in the submissions are provided in the body of this report.
- The Section 96(1A) Application (DA-405/2013/A) seeks to amend DA-405/2013 which approved the mixed use development that the subject DA relates. The Section 96(1A) application seeks approval to provide two additional basement levels to provide a total of 349 spaces. The additional parking spaces proposed in the Section 96(1A) application will be allocated to the additional units proposed by this DA.
- The development application has been amended in September 2015 by reducing the number of units from 220 to 194. The Section 96(1A) application was not amended and accordingly there is currently an oversupply of basement parking spaces. A condition of consent is recommended to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- The applicant has offered to prepare a Voluntary Planning Agreement (VPA) for Council's signature that proposes a Section 88b instrument be registered on the title in favour of Council to allow the general public access to the communal open space located on 6-8 Canton Street within the proposed development.
- Notwithstanding the variation sought to the building height standard, the development application and Section 96 application are recommended for approval subject to conditions.
- The Independent Hearing and Assessment Panel has recommended the development application and Section 96 application be approved in accordance with the Director City Planning's recommendation, subject to amendments.

17 548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING

- This application has been assessed and the report has been prepared by an independent external planning consultant.
- Council has received a Section 96 (1A) application seeking to amend a Development Application (DA-509/2013), which was approved for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units, and associated basement car parking.
- The Section 96 (1A) application seeks to undertake alterations and additions, including:
 - i) an extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces; and
 - ii) design changes to reduce a small portion of floor area; increase building separation distances, improve the elegance of the overall design and introduce some higher quality finishes throughout the building.
- This DA was originally approved by the Sydney East Joint Regional Planning Panel (the Panel) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 as the original development has a capital investment value (CIV) of greater than \$20 million. The CIV for this application is considerably less than \$20 million.
- The site is known as 548-568 Canterbury Road, Campsie and is zoned B5 Business Development under Canterbury Local Environment Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal (as amended) retains the approved ground floor commercial uses and residential units and therefore, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- The Section 96 (1A) application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007), Canterbury Local Environment Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.
- The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the Canterbury Development Control Plan 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal. However, DA-592/2014 involves the provision of two additional levels and design changes consistent with the subject Section 96 application and is currently being assessed and these changes were publically exhibited/notified to surrounding land owners.
- The Section 96 (1A) application is recommended for approval.

- The Independent Hearing and Assessment Panel deferred the matter until the application has been referred to the RMS.

18 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS

- This application has been assessed and the report prepared by an independent external planning consultant (Willana and Associates P/L) on behalf of Council.
- Council has received a Development Application (DA-592/2014), seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels containing 70 units, has a capital investment value of \$12,009,433.00.
- The proposal has been extensively amended throughout the assessment process.
- The approved development (DA-509/2013) currently consists of 16 ground floor commercial units, 254 residential units and associated basement car parking.
- DA-509/2013 was approved by the Sydney East Joint Regional Planning Panel (JRPP) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the original development had a capital investment value of greater than \$20 million.
- The site is known as 548-568 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This development application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.
- The proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 20 October 2015 and 18 November 2015. Three submissions have been received objecting to the proposal. Issues raised in the submissions are provided in the body of this report.

- Council is also concurrently assessing a Section 96 (1A) application seeking to amend DA-509/2013, which approved the mixed use development that the subject DA relates. The Section 96 (1A) application seeks approval for various alterations and additions which are considered improvements generally to the development, as well as an extension to the basement level 3 carpark. The parking spaces in the basement level 3 extension will be allocated to the additional units proposed by this DA. Despite the additional parking proposed in this application, it is deficient by 15 car spaces and two bicycle spaces, when the development is viewed in its final form. Conditions have been imposed to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- Notwithstanding the variation sought to building height standard, the development application is recommended for approval subject to conditions.
- The Independent Hearing and Assessment Panel deferred the matter until the application has been referred to the RMS.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

1 440-442 BURWOOD ROAD, BELMORE: DEMOLITION AND CONSTRUCTION OF SHOP TOP HOUSING DEVELOPMENT CONTAINING COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS WITH BASEMENT PARKING

IHAP Recommendation

THAT Development Application DA-60/2015 be **DEFERRED** to enable the applicant to submit amended plans in compliance with the SEPP 65 building separation requirements for the rear of the building.

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

George Mourad (applicant)	<ul style="list-style-type: none"> • Raises no objections to proposed conditions. • Responded to questions from the Panel in relation to colour and finishes, issues of non-compliance (including building separation, floor heights and setbacks). <ul style="list-style-type: none"> - In relation to choice of materials and finishes the applicant's representative confirmed alternative materials could be explored if required.
------------------------------	--

Panel Assessment

The Panel does not agree with the Council officer's report in relation to one important issue being the rear setback/separation distances.

The Panel is of the opinion that the rear setback/separation should meet SEPP 65 requirements of 6 metres, to allow for windows in the rear wall.

While this is a rear setback it is also a separation issue for the likely development on the adjoining properties 2, 4 and 6-8 Kent Street which are in the same zone.

In these circumstances the Panel is of the opinion that the application should be amended to provide the separation distance from the rear setback in accordance with SEPP 65. This will require some redesign of the units and the Panel is of the opinion that the matter should be deferred to enable the applicant to provide amended plans.

In addition the Panel raised a concern as to whether the rear units as designed, particularly on level three, would meet the BCA requirement for the window opening sizes relative to room size.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

**2 388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY:
DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT
CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR
COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS**

IHAP Recommendation

THAT Development Application DA-335/2014 be **APPROVED** in accordance with the recommendation of the Director City Planning, subject to the following changes to the proposed conditions:

1. Insert additional conditions as follows:
 - “5.3 Amalgamate units B1.02 and B1.03 to create a single unit.
 - 5.4 Increase the rooftop communal open space area on the eastern side of the stairs around the two skylights along structural grid line number 5.
2. Amend condition 28 as follows:
 - a) Delete the first sentence;
 - b) Delete the second sentence and replace as follows:
“A construction traffic management program which is to minimise traffic noise, is to be submitted for Council’s consideration/approval.”
3. Delete condition 36 (this is not a condition).
4. Amend condition 42 delete the word “should” in the first line and replace with the word “shall”.

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Theo Loucas (applicant)	<ul style="list-style-type: none"> • Agrees with the Officer’s recommendation and noted the applicant had extensive consultation with Council staff regarding issues such as access. • Responded to questions from the Panel in relation to changes in level (relationship of driveway, street level and adjacent properties) and issues of non-compliance (open space and setbacks). • Raised no objection to conditions increasing the amount of communal rooftop space and deleting planter boxes on the Canterbury Road frontage.
----------------------------	--

Panel Assessment

The Panel generally agrees with the report.

Proposed amendments would include:

- a) Combine units B1.02 and B1.03 as the Panel is of the opinion that these *studio units* are too small and contain insufficient living and sleeping areas;
- b) The applicant’s representative agreed that the rooftop open communal areas could be increased.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

Please note item 3 and 4 were considered by the Panel concurrently, as follows:

- 3 **548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING**
- 4 **548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS**

IHAP Recommendation

THAT Modification Application DA-509/2013/A and Development Application DA-592/2014 be **DEFERRED** until they have been referred to the RMS.

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Matthew Daniels (applicant)	<ul style="list-style-type: none"> Queried if the wording “if the consent is not activated” in condition 10A and “if the consent is activated” in condition 10B should be swapped. Questioned the number of spaces retained as common property and would prefer these spaces are allocated to units. Responded to questions from the Panel in relation to traffic and the cumulative impacts of developments in this corridor, issues of non-compliance and justification for a variation of height under clause 4.6.
--------------------------------	---

Panel Assessment

The Panel has considered both these matters together especially as development application DA-592/2014 (extra floors) depends on modification application DA-509/2013/A being approved (extra parking). Both these applications build on the existing development consent approved by the JRPP for the site. The Panel is of the opinion that these matters should be adjourned to enable the RMS to be fully consulted about the total development of the site.

The LEP history is relevant to consider and the Panel notes that:

- a) Council’s resolution to increase the height was in October 2013;
- b) The Planning Proposal for this was referred to the Department of Planning for Gateway determination after October 2014 (Draft LEP);
- c) The RMS raised concerns about the increased height on the site without further specified information;
- d) The Council then omitted the site from the Draft LEP;
- e) The omitted sites including this site has not been picked up in any new Draft LEP;

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

- f) Therefore the only support in the increase in height is the original resolution of Council in October 2013.

The Panel was advised that there is no current proposal to include this site in any planning proposal to increase the height controls.

This history indicates that the Council resolution would only be relevant as a policy which without further consideration, by at least the RMS, must be given little weight in the determination of these development applications, one of which breaches the 18m height limit significantly. The previous comments from RMS included:

“... has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed.”

The Panel is of the opinion that the traffic impacts raised by the RMS should be fully investigated and considered. The Panel notes the objective of clause 101 of SEPP (Infrastructure) to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads.

The Panel is of the opinion that the Council could not form the required satisfaction under clause 101(2) of the SEPP that safety, efficiency and ongoing operation of the classified road would not be adversely affected by the redevelopment as a result of the nature, volume or frequency of vehicles using the classified road to gain access to the land from the total development proposal for this site.

In addition the Panel is of the opinion that the Council cannot legally determine the development application until both the development application and the Section 96 modification application have been referred to RMS under clause 104 of the SEPP either because the DA/Section 96 (which relies on the existing consent) is for *new premises* under clause 104(1)(a) or they propose an *enlargement/extension of existing premises* under clause 104(1)(b). The Panel notes that the updated VARGA traffic report provided by the applicant has not been referred to the RMS and this can be part of the referral to the RMS. Finally the Panel notes there is a proposed condition (18) for intersection works at Elizabeth Street and Canterbury Road and the Panel questions if this should also be considered by and referred to the RMS.

The Panel also notes that it was not satisfied with the justification for a variation of the height under clause 4.6, particularly having regard to the requirements of clause 4.6(3)(a) (development standard is unreasonable and unnecessary and the circumstances) (b) (sufficient environmental planning grounds to justify contravening the development) especially having regard to the recent cases referred to in the report. The context for the Panel's position reflects that the proposal exceeds the height limit (of 18m) by some 25-30% and involves the addition of two further basement car parks and two further residential levels to an existing non-complying building.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

5 18-22 NORTHCOTE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING DEVELOPMENT, FRONT FENCE AND BASEMENT PARKING

IHAP Recommendation

THAT Development Application DA-218/2015 be **APPROVED** in accordance with the recommendation of the Director City Planning, subject to the following changes to the proposed conditions:

1. Amend condition 1.1, at the end of the bullet point "Landscape Plan" add the words "(in accordance with condition 51A)".
2. Add new conditions as follows:
 - 6.7 The buildings (including the basement) are to be shifted to the north to provide a fully unobstructed 2 metre continuous deep soil area along the southern boundary with appropriate relocation of the basement bike parking and the north east corner egress stairs. The 2m setback is to be planted with screen plantings up to 2.5m to 4m tall.
 - 6.8 Relocate the northern and southern outdoor pedestrian walkways that currently are adjacent to the north and south boundary, so that they are moved off the boundaries to align with the units to provide 2 to 3 metres deep soil planting areas and to minimise overlooking to neighbouring properties.
 - 6.9 The front landscaping area for units one to four is to be a 4.5 metres strip of deep soil landscaping (but with the existing access paths)."
3. Amend condition 11 by adding the words after the last sentence "Adequate visibility at the site boundary is to be provided for exiting vehicles."
4. Amend condition 16 by deleting the word "all" and replace with the word "Four".
5. Delete condition 18.
6. Amend condition 20 by adding to the end of the last sentence the words "and at its cost".
7. Amend condition 51 and 57 as follows:
 - a) Renumber condition 57 as condition 51, and condition 51 as 57
 - b) Amend new condition 51 (old condition 57) by deleting the words "If this application is to be approved".
8. Insert new condition 51A as follows:

"The landscape plan prepared by Arcadia Landscape Architecture and submitted to Council on 26 October 2015 must be amended to incorporate all relevant changes referred to in condition 6. The revised landscape plan shall be submitted to the satisfaction of Council prior to the issue of the Construction Certificate."
9. Amend condition 83 and 84 by deleting the numerals 84, joining those two conditions with the word "and" in between and replace the word "Future" with "future".
10. Amend condition 83 and 84, by deleting the numeral 84 and joining the conditions to read as follows:

"83. Allocation of street numbers has been based on the Rural and Urban Addressing Standard AS/NZS 4819:2011 and future Street Addressing for the proposed development within DA-218/2015, is advised as follows: **18 Northcote Street, Canterbury NSW 2193.**

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

Sub property addressing is advised as follows:

Unit 1/18 Northcote Street, Canterbury NSW 2193, through to...;

Unit 13/18 Northcote Street, Canterbury NSW 2193."

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Kenneth Ong (objector)	<ul style="list-style-type: none"> • Is addressing the Panel on behalf of his father who owns a property adjacent to the proposed development. • Does not oppose development but is of the view the design has not taken into account concerns of local residents. • Notes the height of the proposed development is greater than the prescribed maximum of 8.5 metres. • Has concern regarding the height of the rear dwellings which are intended to be single story, believes having a flat roof on one side and pitched roof on the other will make these dwellings two storey. • Is of the view the design of the building does not match the character of the existing streetscape. • Believes the proposal is an overdevelopment, is concerned the applicant will lodge a Section 96 application to retain the units, noting the updated plans show the basement carpark being excavated around 18 Northcote Street. • Notes the proposed development exceeds the floor space ratio by 118sqm. • Is concerned the proposed development will result in a reduction of solar access to their property. • Has concerns regarding loss of privacy as the proposed development has units and balconies looking into the bedroom and living areas of their property. • Has concerns regarding excavation close to their property boundary. • Requested a deferred commencement condition be imposed to ensure 18 Northcote Street is demolished prior to commencement of any consent. • Is of the view: <ul style="list-style-type: none"> - The proposed building should be shifted towards the northern boundary to alleviate issues such as solar access and privacy and move the ramp away from the adjoining property; - Units 1 to 4 could be broken up into two buildings so that it is more sympathetic to the streetscape.
---------------------------	---

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015 (CONT.)

Kon Mihail (objector)	<ul style="list-style-type: none"> Believes the proposed development will result in increased traffic in the vicinity of the proposed development. Questions if underground parking is allowed in an R3 zone.
Maria Camara (objector)	<ul style="list-style-type: none"> Advised there is currently limited parking on Northcote Street and it is difficult for vehicles to manoeuvre, especially in afternoon traffic. Is concerned the proposed development will result in additional vehicular traffic from a single driveway which will intensify traffic issues.
Truong Ong (objector)	<ul style="list-style-type: none"> Notes Northcote Street is a narrow road. Is concerned the proposed development will increase traffic in Northcote Street. Has concerns the proposal will exacerbate existing problems with on street parking

Panel Assessment

The Panel noted the concerns of the residents which related to traffic and parking and particularly to 24 Northcote Street overlooking and privacy concerns. One of the concerns of the residents was to have traffic control measures at the intersection of Northcote Street and Canterbury Road. The Panel notes that these are matters that can not be addressed in relation to this development application and the residents were advised to approach the Council's Traffic Engineer and Traffic Committee to address any existing or additional traffic concerns of the residents.

The Panel is also of the opinion that the development could be modified slightly to improve deep soil landscaping areas around the site and also provide some screening relief to 24 Northcote Street especially on the southern side of the site where the vehicle ramp access area is.

The movement of the buildings to the north to provide additional deep soil area would also reduce solar impacts to 24 Northcote Street. The relocation of the north and south walkways will also improve overlooking between the development and adjoining properties.

The meeting closed at 9.10 p.m.

RECOMMENDATION:

THAT the report be noted.

**13 INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT -
24 NOVEMBER 2015****FILE NO: D-6-9 PT11****REPORT BY: DIRECTOR CORPORATE SERVICES****Summary:**

- The report of the Independent Hearing and Assessment Panel (IHAP) is submitted for the Committee's information.
- The Panel's assessment and recommendation also appears in each of the respective City Development Committee reports considered by IHAP included in this business paper.
- It is recommended the report be noted.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget and supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Report of the Independent Hearing & Assessment Panel meeting, held in the Council Chambers, 137 Beamish Street, Campsie on 24 November 2015

Present

Mr Michael McMahon (Law) - Chairperson
Mr Lloyd Graham (Town Planning)
Dr Chloe Mason (Social Science)
Ms Jan Murrell (Environmental Science)
Mr Roger Hedstrom (Urban Design/Architecture)

Staff in Attendance

Ms Lia Chinnery (Coordinator Governance)
Mr Brad McPherson (Group Manager Governance, not present for the closed session)
Mr Andrew Hargreaves (Team Leader Development Assessment Operations, not present for the closed session)

The meeting opened at 6.03 p.m.

Introduction

The Chairperson welcomed all those present and explained the functions of IHAP and that the recommendations made at this meeting would be referred to the City Development Committee for determination.

Declarations of Interest

The Chairperson asked the Panel if any member needed to declare a pecuniary interest in any of the items on the agenda. There were no declarations of interest.

17 548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING

FILE NO: 150/548D PT3 & 4
REPORT BY: DIRECTOR CITY PLANNING
WARD: EAST

D/A No:	DA-509/2013/A
Applicant: Owner:	Statewide Planning Sterling Linx Pty Ltd
Zoning:	B5 Business Development under Canterbury LEP 2012
Application Date:	17 December 2014 – Additional information received 17 September 2015 and 15 October 2015

Summary:

- This application has been assessed and the report has been prepared by an independent external planning consultant.
- Council has received a Section 96 (1A) application seeking to amend a Development Application (DA-509/2013), which was approved for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units, and associated basement car parking.
- The Section 96 (1A) application seeks to undertake alterations and additions, including:
 - i) an extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces; and
 - ii) design changes to reduce a small portion of floor area; increase building separation distances, improve the elegance of the overall design and introduce some higher quality finishes throughout the building.
- This DA was originally approved by the Sydney East Joint Regional Planning Panel (the Panel) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 as the original development has a capital investment value (CIV) of greater than \$20 million. The CIV for this application is considerably less than \$20 million.
- The site is known as 548-568 Canterbury Road, Campsie and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal (as amended) retains the approved ground floor commercial uses and residential units and therefore, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- The Section 96 (1A) application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007), Canterbury Local Environment Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.

- The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the Canterbury Development Control Plan 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal. However, DA-592/2014 involves the provision of two additional levels and design changes consistent with the subject Section 96 application and is currently being assessed and these changes were publically exhibited/notified to surrounding land owners.
- The Section 96 (1A) application is recommended for approval.
- The Independent Hearing and Assessment Panel deferred the matter until the application has been referred to the RMS.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

- **Approved Development**
The Joint Regional Planning Panel (JRPP) approved DA-509/2013 for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units and associated basement car parking on 2 October 2014, subject to conditions. In detail, the approved development includes the following:
 - Demolition of the existing site structures and excavation for basement car parking;
 - Construction of three levels of basement parking with four ingress/egress points via a new rear laneway to be constructed along the southern boundary of the site. 402 off-street car parking spaces have been approved comprising 322 residential spaces, 26 retail/ commercial spaces, 54 visitor spaces and 53 bicycle spaces;
 - Basement level parking lots are to be accessed via individual points off a new laneway to be constructed along the southern boundary of the site;
 - A loading bay which can accommodate a variety of commercial vehicles up to and including 9.8 metre long rigid vehicles. A reversing bay at the western end of the future rear laneway is also proposed;
 - At ground floor level in Buildings A, B, C and D, 16 non-residential commercial units have been approved along the Canterbury Road frontage;
 - The remainder of the development comprises a mix of residential units (92 x one bedroom units, 140 x two bedroom units and 22 x three bedroom units);
 - A garbage storage area and collection area is provided within the ground level of each building;
 - Deep soil area and landscaping are provided within the central courtyard between Buildings A, B, C and D and around the periphery of Building E; and

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

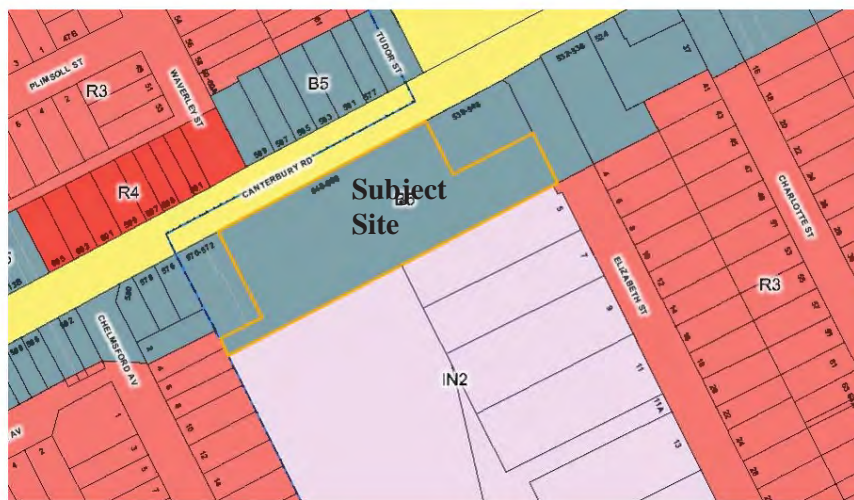
- Roof terraces totalling 845 m² also enhance common open space provision. Ground level communal open space is proposed at 661 m² resulting in a total of 18% of the site area allocated for common open space use.
- **Development Application - DA-592/2014 – Additional Levels**
Development Application (DA-592/2014) was submitted by the applicant on 15 December 2014, seeking consent to make alterations and additions to the mixed use development approved under DA-509/2013. Both the Section 96(1A) application and DA-592/2014 are to be considered concurrently. The alterations and additions proposed under DA-592/2014 consist of an additional two residential levels containing 70 units.

Site Details

The subject site is identified as Lot 106 DP 624546 and known as 548-568 Canterbury Road, Campsie. The irregular shaped land holding has frontage to Canterbury Road of 117.95 m to the north and a frontage to Elizabeth Street of 27.7 m to the east and a total site area of 8275 m². The site backs onto the adjoining allotments at 538-546 Canterbury Road and 570-572 Canterbury Road to the east and west respectively. The site has a slight cross fall from the north-west to the south-east of the allotment.

The site was previously occupied by a two storey bulky goods retail outlet, formerly used by Harrisons Timber and Hardware, with associated storage areas and car parking. The site is no longer in use in anticipation of its redevelopment. Access to the site is via Canterbury Road and Elizabeth Street.

The site is located in a transitional zone, with institutional uses to the north-east (Canterbury Hospital), mixed commercial/office uses to the east (clothing manufacturers, office, medical centre), light industrial uses to the rear/south, commercial/bulky goods retailing to the west and a car sales lot and low rise residential uses to the north. The outer lying areas are predominantly medium density residential development.



Subject Site zoning

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)



Aerial and surrounding development



View of site along Canterbury Road – looking west



Looking North on opposite side of Canterbury Road



Canterbury Road Frontage

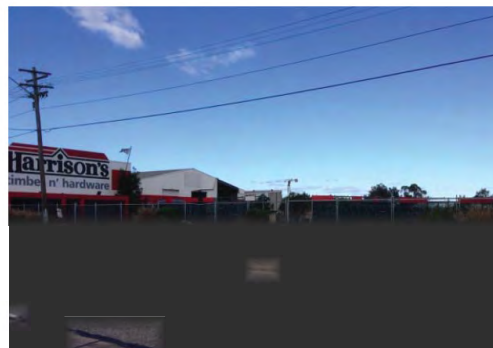
CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)



View of site from Elizabeth Street



Car park and vehicle access from Canterbury Road

Proposal

The Section 96 (1A) application that is the subject of this assessment report seeks to amend the approved mixed use development as follows:

- Extend basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces;
- Renumbering of levels to remove the ground floor reference results in former Level 6 = Level 7 and former Level 7 = Level 8;
- Internal changes to improve functionality of living rooms in Units A03, A07, A08, B03, B07, B08, C03, C07, C08, D03, D07, D08;
- Façade changes to Units A-D01 to introduce a ledge and a joint line to give the building a horizontal emphasis. Louvred screens and hoods were also removed so that the top of the building is more restrained and the overall building has a unified composition; and
- Revised finishes schedule that includes polished concrete and metal flat bar balustrades.

A concise list of all proposed modifications are detailed level by level in the Table provided in Section 1 of the Planning Report prepared by DDC Urban Planning, dated September 2015.

Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of and Section 96(1A) the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- Section 96 (1A) Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

Assessment

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues emerge:

- **Section 96 (1A) Environmental Planning and Assessment Act 1979**
Section 96(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) imposes four tests for an application seeking consent to modify a development consent, which are detailed below.

Are the proposed modifications of minimal environmental impact?

The proposed amendments relate to the internal re-configuration and provision of additional underground car parking within the approved footprint of the building. This will not have any external implications on adjoining properties or the biophysical environment or be visible from any part of the site.

The amendments also include a range of internal alterations and replanning of units, as well as some external modifications to improve internal amenity, increase setback and separation distances, improve on internal privacy, improve the overall built form and the quality of finishes to the building. The Table to Section 1 of the report from DDC Urban Planning also details the proposed benefits of the proposed changes, which is reflected further in their separate written submission dated 16 September 2015.

The proposed modifications will have minimal environmental impact for the following reasons:

- There will be no fundamental change to the uses and definition of the approved development;
- The modifications are largely internal and will not affect the approved building envelope, bulk, scale or massing;
- The modifications are generally compliant with the relevant planning controls;
- The modifications will result in an overall nett improvement in residential amenity through the improved solar access/ privacy and softened built form and visual appearance from the public realm;
- The modifications will not increase the GFA of the building;
- The modifications will not cause any additional overshadowing or visual massing for neighbours;
- The modifications will not cause any changes to the streetscape presentation of the development; and
- The modifications to the basement are to a part of the building that is already excavated below ground level with only car parking above it and will not compromise any deep soil or landscaped areas.

Is the proposal substantially the same development as originally approved?

Section 96(1A)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (b) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was*

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

originally granted and before that consent as originally granted was modified (if at all),

The development remains substantially the same as originally approved given:

- There will be no fundamental change to the use and definition of the approved development;
- There will be no change to the size or description of the land to which the consent relates;
- The original consent has not been previously modified pursuant to Section 96 of the EP&A Act, 1979 (as amended); and
- The qualitative impacts will be similar, if not better than, that of the approved development.

There is a considerable body of case law surrounding the “substantially the same” test, including *Marana Developments Pty Limited v Botany City Council [2011]*. In this case, the original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking. This also involved a changed unit mix. Despite significant internal changes, the Court held that the minimal change to the external floorplates and layout was of great significance and the test was satisfied.

In *Sydney City Council v Ilenace Pty Ltd [1984]* the Court judgment found that a proposal can only be regarded as a modification if it involves “alteration without radical transformation”. In *Vacik Pty Ltd v Penrith City Council [1992]* the Court judgment found that “substantially the same” meant essentially of “having the same essence”. Furthermore, in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999]* the Court judgment found that when undertaking the “substantially the same” test a comparison is required to be made between the consent as originally granted and the proposed modification and a consideration of the quantitative and qualitative elements of the proposal must be made with an appreciation of the elements proper context.

As can be seen by the case law, the subject proposal is not so different or radical as to require a new DA and is considered to have the same essential elements that which was originally granted consent by the Panel. Furthermore, consideration of the quantitative and qualitative elements of the proposal has been made. Consideration has been given to the context of the modifications in relation to the overall approved scheme. In this instance the proposed Section 96(1A) modifications are considered to satisfy the test for “substantially the same development”.

Has the Application been notified in accordance with the Regulations or a DCP?
Section 96(1A)(c) of the EP&A Act, 1979 provides as follows:

- (a) *It ... (the consent authority) ... has as notified the application in accordance with:*
- (i) *The regulations, if the regulations so require, or*

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- (ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.*

The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the CDCP 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal.

Have any submissions received concerning the modifications been considered?

Section 96(1A)(d) of the EP&A Act, 1979 provides that:

- (d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.*

No submissions were received as the application was not notified, as per Section 7.2 (ii) of the CDCP 2012.

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**
A supplementary design verification statement has been submitted by way of a qualitative peer review by Stanisis Architects. This review addresses the proposal's achievement of the ten Design Quality Principles contained within SEPP 65 and demonstrates that the proposal improves upon the original findings that the development is generally consistent with the objectives and numeric criteria of SEPP 65 and the Residential Flat Design Code.
- **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**
The original proposal was accompanied by a BASIX Certificate, which listed a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required and have been met with regard to water, energy and thermal comfort targets. The proposal satisfies the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The proposed amendments do not alter the conclusions previously reached in respect to the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**
Clause 7 of State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. The proposed amendments do not alter the conclusions previously reached in respect of SEPP 55.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**
State Environmental Planning Policy 2007 (SEPP 2007) aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The subject site is located on Canterbury Road which is a classified road for the purposes of the infrastructure SEPP. In accordance with Clause 104 the proposed development falls under the requirements of Schedule 3 of SEPP 2007 and requires referral to Roads and Maritime Services (RMS).

In light of the nature of the proposal, the previous conditions of approval supplied by the RMS and overall minor environmental consequences, the application was not referred to the RMS. The proposed amendments do not alter the conclusions previously reached in respect of SEPP 2007 and the original conditions placed on the application have not been removed.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**
The site is zoned B5 Business Development under CLEP 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The approved development involves ground floor commercial uses with upper floor residential units, and as such the mixed use development is permissible in the subject zone.

The proposed amendments will not alter the scheme's compliance with the key provisions of the CLEP 2012. Likewise, the proposed basement modifications will not be discernible externally or trigger any additional clauses contained within the CLEP 2012 that were not considered in the original assessment.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**
The proposed amendments do not alter the conclusions previously reached in respect of the proposal's compliance with the provisions of Part 3 Business Centres and Part 6 General Controls of CDCP 2012 is detailed below.

The proposed modifications involve no significant amendment to the relevant issues addressed by the CDCP 2012, namely:

- Isolation of sites
- Building Height
- Building Depth
- Building Setbacks
- Building Separation (as per SEPP 65)
- Building Configuration
- Design Controls
- Façades – New 3-5 storey buildings
- Shopfront
- Cantilevered Awning along Canterbury Road frontage
- Articulation
- Roof Design

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

- Service and Utility Areas
- Visual Privacy
- Private Open Space, Balconies, terraces and Courtyards
- Internal Dwelling Space and Design
- Access and Mobility
- Climate and Resource Efficiency
- Crime Prevention Through Environmental Design
- Development Engineering, Flood and Stormwater
- Landscaping
- Preservation of Trees or Vegetation

The proposed modifications do not alter the general level of compliance with the CDCP 2012 or Council's conclusions drawn in relation to the above matters in the initial DA. The additional two levels of accommodation and corresponding assessment of the merits of these additions are dealt with under a separate DA (DA-92/2014).

The proposed modifications will involve some modification to the proposed car parking. Due to the minor nature, these modifications will not affect the performance of the development against the CDCP 2012 provisions.

Part 6.8 Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP as follows:

Standard	Requirement	Proposal	Complies
Residential Units	92 x 1 bedroom (1 each) 140 x 2 bedroom (1.2 each, with 0.2 common) 22 x 3 bedroom (2 each) = 276, plus 28 common spaces = 304 spaces	455 spaces	Yes
	Visitor – 51 spaces (based one 1 space per 5 units)	53 spaces	Yes
	One car wash bay	One car wash bay	Yes
	Resident bicycle spaces – 51 spaces	Total of 76 provided.	Yes
	Visitor bicycle spaces – 25 spaces		Yes
Commercial Units	Commercial units along Canterbury Road, rate is 1 space per 40sqm → Total 25 spaces	26 spaces provided	Yes
	One courier parking/ loading area space	1 space	Yes
	Bicycle parking 3 spaces for commercial use 2 spaces for visitors Total 5 spaces	Nil spaces provided, to be conditioned to provide 5 spaces	No – condition 14 imposed. See comments (1) below
Parking Summary	Total car parking required (resident + commercial) 304+25=329	455+26=481	Yes
	Total visitor car parking required (resident) = 51	53	Yes
	Total ancillary spaces (wash bay + courier) 1+1 = 2	1+1 = 2	Yes

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

Standard	Requirement	Proposal	Complies
	Total bicycle spaces required (resident + commercial) $51+3 = 54$	$51+0=51$	No – condition 14 imposed
	Total visitor bicycle spaces required (resident + commercial) $25+2 = 27$	$25+0=25$	No – condition 14 imposed

(1) Car Parking/Bicycle Storage

The proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. The lack of bicycle parking for the commercial tenancies represents a minor discrepancy, which has been addressed through the imposition of Condition 14. Further, the plans provided with DA-592/2014 provide sufficient bicycle parking for the additional units contemplated by that application, as well as the five spaces required by Condition 14 of DA-509/2013. Accordingly, this is considered to be an acceptable outcome.

Notification

No submissions were received as the application was not notified, as per Section 7.2 (ii) of the CDCP 2012.

Conclusion

The Section 96 (1A) application has been assessed pursuant to the provisions of Section 96 and Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant planning controls. The Section 96 (1A) application has been found to be satisfactory and worthy of support. The proposed modifications will maintain the approved use and building form. The modifications are of a relatively minor nature in the context of the development and will have no significant adverse impacts on surrounding properties. The proposed development will remain 'substantially the same' development for which consent was granted and the proposed modifications will have minimal environmental impact.

Accordingly, it is recommended that the Section 96(1A) application be approved subject to conditions.

RECOMMENDATION:

THAT Development Application DA-509/2013/A for a Section 96(1A) modification relating to alterations and additions to an approved mixed use building at 548-568 Canterbury Road, Campsie be **APPROVED**. The modifications relate to an extension to basement level 3 and modifications to a number of units on each floor of the building. These modifications are recommended for approval, subject to conditions of the original approval with exception to conditions 5, 10, 14 and 17 which are modified as follows:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
GENERAL

- The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
S96-01 Issue E	September 2015	Geoform	15 October 2015
S96-02 Issue E	September 2015	Geoform	15 October 2015
S96-03 Issue E	September 2015	Geoform	15 October 2015

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

S96-04 Issue F	September 2015	Geoform	15 October 2015
S96-05 Issue F	September 2015	Geoform	15 October 2015
S96-06 Issue F	September 2015	Geoform	15 October 2015
S96-07 Issue F	September 2015	Geoform	15 October 2015
S96-08 Issue F	September 2015	Geoform	15 October 2015
S96-09 Issue F	September 2015	Geoform	15 October 2015
L/01 – L/03	19 June 2013	ATC Landscape Architects & Swimming Pool Designers	30 May 2014

- 5.1 The developer/applicant is to prepare a revised car parking and bicycle spaces allocation plan for the development, and submit it to the Principal Certifying Authority prior to the issuing of a Construction Certificate. The allocation plan must ensure car parking and bicycle spaces are correctly allocated to the dwellings within the residential component of the development, and to the commercial uses on the lower and upper ground levels.
- 5.2 The Cantilevered Awning along the Canterbury Road frontage is to have a width of 3 metres.
- 5.3 All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
- 10A. In the event that the consent for DA-592/2014 is activated, the applicant/ developer shall provide a total of four hundred and two (402) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Three hundred and twenty two (322) residential spaces, twenty eight (28) of which retained as common property
 - 10.2 Fifty four (54) residential visitor spaces
 - 10.3 Twenty six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space
- 10B. In the event that the consent for DA-592/2014 is not activated, the applicant/ developer shall provide a total of four hundred and ninety-eight (498) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Four hundred and five (405) residential spaces, thirty seven (37) of which retained as common property.
 - 10.2 Sixty five (65) residential visitor spaces
 - 10.3 Twenty-six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space

If the development is to be strata subdivided, the car park layout must respect the above allocations.
14. Parking facilities/storage for 76 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the development. These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.
17. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

services and public facilities in the area.

The monetary contribution of \$3,118,164.79 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$282,039.89
• Community Facilities	\$2,756,788.46
• Plan Administration	\$79,336.44

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index, The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

IHAP ASSESSMENT AND RECOMMENDATION

The Independent Hearing and Assessment Panel considered the application on 23 November 2015, and their assessment and recommendation is provided below.

Panel Assessment

The Panel has considered both these matters (DA-592/2014 and DA-509/2013/A) together especially as development application DA-592/2014 (extra floors) depends on modification application DA-509/2013/A being approved (extra parking). Both these applications build on the existing development consent approved by the JRPP for the site. The Panel is of the opinion that these matters should be adjourned to enable the RMS to be fully consulted about the total development of the site.

The LEP history is relevant to consider and the Panel notes that:

- Council's resolution to increase the height was in October 2013;
- The Planning Proposal for this was referred to the Department of Planning for Gateway determination after October 2014 (Draft LEP);
- The RMS raised concerns about the increased height on the site without further specified information;
- The Council then omitted the site from the Draft LEP;
- The omitted sites including this site has not been picked up in any new Draft LEP;
- Therefore the only support in the increase in height is the original resolution of Council in October 2013.

The Panel was advised that there is no current proposal to include this site in any planning proposal to increase the height controls.

This history indicates that the Council resolution would only be relevant as a policy which without further consideration, by at least the RMS, must be given little weight in the determination of these development applications, one of which breaches the 18m height limit significantly. The previous comments from RMS included:

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING (CONT.)

“... has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed.”

The Panel is of the opinion that the traffic impacts raised by the RMS should be fully investigated and considered. The Panel notes the objective of clause 101 of SEPP (Infrastructure) to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads.

The Panel is of the opinion that the Council could not form the required satisfaction under clause 101(2) of the SEPP that safety, efficiency and ongoing operation of the classified road would not be adversely affected by the redevelopment as a result of the nature, volume or frequency of vehicles using the classified road to gain access to the land from the total development proposal for this site.

In addition the Panel is of the opinion that the Council cannot legally determine the development application until both the development application and the Section 96 modification application have been referred to RMS under clause 104 of the SEPP either because the DA/Section 96 (which relies on the existing consent) is for *new premises* under clause 104(1)(a) or they propose *an enlargement/extension of existing premises* under clause 104(1)(b). The Panel notes that the updated VARGA traffic report provided by the applicant has not been referred to the RMS and this can be part of the referral to the RMS. Finally the Panel notes there is a proposed condition (18) for intersection works at Elizabeth Street and Canterbury Road and the Panel questions if this should also be considered by and referred to the RMS.

The Panel also notes that it was not satisfied with the justification for a variation of the height under clause 4.6, particularly having regard to the requirements of clause 4.6(3)(a) (development standard is unreasonable and unnecessary and the circumstances) (b) (sufficient environmental planning grounds to justify contravening the development) especially having regard to the recent cases referred to in the report. The context for the Panel's position reflects that the proposal exceeds the height limit (of 18m) by some 25-30% and involves the addition of two further basement car parks and two further residential levels to an existing non-complying building.

IHAP Recommendation

THAT Modification Application DA-509/2013/A be **DEFERRED** until the application has been referred to the RMS.

**18 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF
ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY
MIXED USE BUILDING COMPRISING ADDITIONAL
RESIDENTIAL APARTMENTS**

FILE NO: 150/548D PT 3 & 4

REPORT BY: DIRECTOR CITY PLANNING

WARD: EAST

D/A No:	DA-592/2014
Applicant:	Statewide Planning
Owner:	Sterling Linx Pty Ltd
Zoning:	B5 Business Development under Canterbury LEP 2012
Application Date:	15 December 2014 – Additional information received 17 September 2015, 15 October 2015 and 10 November 2015

Summary:

- This application has been assessed and the report prepared by an independent external planning consultant (Willana and Associates P/L) on behalf of Council.
- Council has received a Development Application (DA-592/2014), seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels containing 70 units, has a capital investment value of \$12,009,433.00.
- The proposal has been extensively amended throughout the assessment process.
- The approved development (DA-509/2013) currently consists of 16 ground floor commercial units, 254 residential units and associated basement car parking.
- DA-509/2013 was approved by the Sydney East Joint Regional Planning Panel (JRPP) as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the original development had a capital investment value of greater than \$20 million.
- The site is known as 548-568 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This development application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- The proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 20 October 2015 and 18 November 2015. Three submissions have been received objecting to the proposal. Issues raised in the submissions are provided in the body of this report.
- Council is also concurrently assessing a Section 96 (1A) application seeking to amend DA-509/2013, which approved the mixed use development that the subject DA relates. The Section 96 (1A) application seeks approval for various alterations and additions which are considered improvements generally to the development, as well as an extension to the basement level 3 carpark. The parking spaces in the basement level 3 extension will be allocated to the additional units proposed by this DA. Despite the additional parking proposed in this application, it is deficient by 15 car spaces and two bicycle spaces, when the development is viewed in its final form. Conditions have been imposed to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- Notwithstanding the variation sought to building height standard, the development application is recommended for approval subject to conditions.
- The Independent Hearing and Assessment Panel deferred the matter until the application has been referred to the RMS.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

- **Original Development Application - DA-509/2013**
The JRPP approved DA-509/2013 for the demolition of the existing site structures and construction of a mixed use development comprising 16 ground floor commercial units, 254 residential units and associated basement car parking on 2 October 2014, subject to conditions. In detail, the approved development includes the following:
 - Demolition of the existing site structures and excavation for basement car parking;
 - Construction of three levels of basement parking with four ingress/egress points via a new rear laneway to be constructed along the southern boundary of the site. 402 off-street car parking spaces are proposed comprising 322 residential spaces, 26 retail/ commercial spaces and 54 visitor spaces. In addition, the proposal includes 53 bicycle spaces;
 - Basement level parking lots are to be accessed via individual points off a new laneway to be constructed along the southern boundary of the site;
 - A loading bay which can accommodate a variety of commercial vehicles up to and including 9.8 metre long rigid vehicles. A reversing bay at the western end of the future rear laneway is also proposed;
 - At ground floor level in Buildings A, B, C and D, 16 non-residential commercial units are proposed along the Canterbury Road frontage;

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- The remainder of the development comprises a mix of residential units (92 x one bedroom units, 140 x two bedroom units and 22 x three bedroom units);
 - A garbage storage area and collection area is provided within the ground level of each building;
 - Deep soil areas and landscaping are provided within the central courtyard between Buildings A, B, C and D and around the periphery of Building E; and
 - Roof terraces totalling 845m² also enhance common open space provision. Ground level communal open space is proposed at 661m² resulting in a total of 18% of the site area allocated for common open space use.
- **Section 96(1A) Application to Modify DA-509/2013**
A Section 96 (1A) application to amend DA-509/2013 is currently under concurrent assessment by Council. This application seeks to undertake alterations and additions, including:
 - An extension to basement level 3 to provide an additional 79 car parking spaces, four motorbike spaces and 49 bicycle spaces.
 - Renumbering of levels to remove the ground floor reference results in former Level 6 = Level 7 and former Level 7 = Level 8.
 - Internal changes to improve functionality of living rooms in Units A03, A07, A08, B03, B07, B08, C03, C07, C08, D03, D07, D08.
 - Façade changes to Units A-D01 to introduce a ledge and a joint line to give the building a horizontal emphasis. Louvred screens and hoods were also removed so that the top of the building is more restrained and the overall building has a unified composition.
 - Revised finishes schedule that includes polished concrete and metal flat bar balustrades.

A concise list of all proposed modifications are detailed level by level in the Table provided in Section 1 of the Planning Report prepared by DDC Urban Planning, dated September 2015. Note is also made that the alterations to the basement car park are intended to facilitate the provision of adequate car parking to meet the demand generated by the subject DA (DA-592/2014).

- **Amendment to CLEP 2012 – Building Heights**
At the meeting on 31 October 2013 Council resolved to endorse an amendment to the CLEP 2012, which included adoption of the draft Canterbury Residential Development Strategy. The LEP amendment also included a proposal to increase the building height limits at particular sites within the Canterbury Road Corridor. In this regard, the subject site proposed to increase the height limit from 18m (approximately 5-6 storeys) to 25m (8 storeys).

While the Residential Development Strategy originally recommended increasing the building height limit for the subject site to 21m (7 storeys), Council adopted a 25m height limit. The Amendment to the CLEP 2012 was subsequently placed on public exhibition and at an Extraordinary Meeting of Council on 2 October 2014, Council resolved to adopt the exhibited planning proposal. The Planning Proposal was then sent to the NSW Department of Planning and Environment for a Gateway Determination.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

During this process, the RMS raised concerns at the unknown traffic and road safety implications across the Regional Road Network as a result of increased numbers and density on a number of identified sites. In relation to the subject site, the RMS made the following comments:

“Roads and Maritime notes that the planning proposal to increase permissible building height of the subject site has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed. Traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road should be assessed. Roads and Maritime is likely to require access to be provided from the adjoining local road network for any future development or subdivision of the subject site.”

Consequently, Council determined to omit a number of specific properties (including the subject site) from the Planning Proposal to allow resolution of the issues separately, while proceeding with a range of other important amendments to the CLEP 2012. The CLEP 2012 was formally amended in March 2015 and there is no outstanding or active Planning Proposals by Council that relate to this particular site. However, there is a Council resolution to increase the height limit on this site to 25m.

Site Details

The subject site is identified as Lot 106 DP 624546 and known as 548-568 Canterbury Road, Campsie. The irregular shaped land holding has frontage to Canterbury Road of 117.95 m to the north and a frontage to Elizabeth Street of 27.7m to the east and a total site area of 8275m². The site backs onto the adjoining allotments at 538-546 Canterbury Road and 570-572 Canterbury Road to the east and west respectively. The site has a slight cross fall from the north-west to the south-east of the allotment.

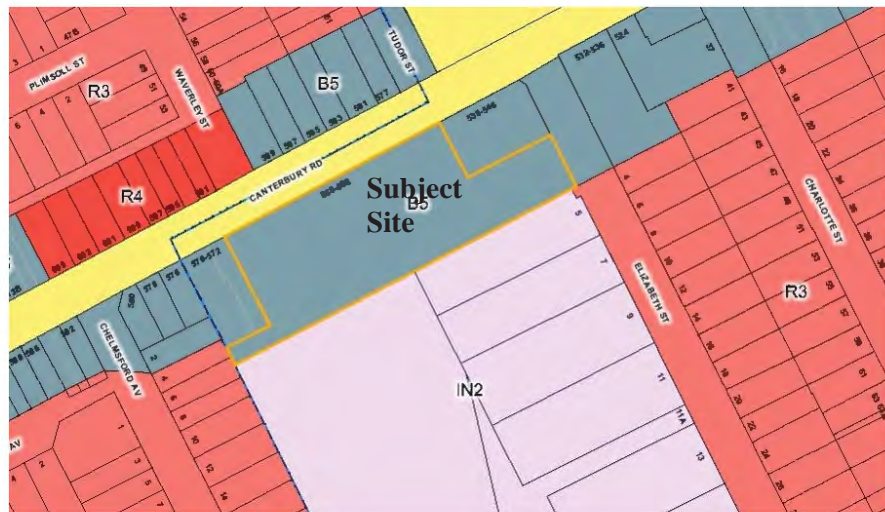
The site was previously occupied by a two storey bulky goods retail outlet, formerly used by Harrisons Timber and Hardware, with associated storage areas and car parking. The site is no longer in use in anticipation of its redevelopment. Access to the site is via Canterbury Road and Elizabeth Street.

The site is located in a transitional zone, with institutional uses to the north-east (Canterbury Hospital), mixed commercial/office uses to the east (clothing manufacturers, office, medical centre), light industrial uses to the rear/south, commercial/bulky goods retailing to the west and a car sales lot and low rise residential uses to the north. The outer lying areas are predominantly medium density residential development.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)



Subject Site zoning



Aerial and surrounding development

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)



View of site along Canterbury Road – looking west



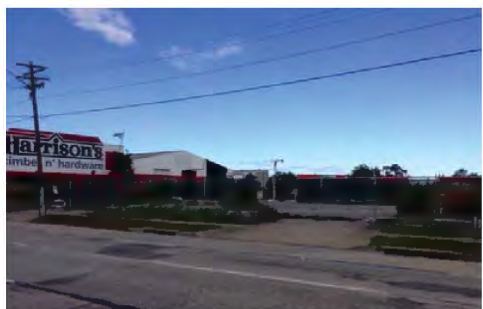
Looking North on opposite side of Canterbury Road



Canterbury Road Frontage



View of site from Elizabeth Street



Car park and vehicle access from Canterbury Road

Proposal

The application proposes to construct an additional two levels on an approved six storey mixed use development, resulting in an eight storey building. The additional two levels will contain a total of 70 residential units in the following configurations:

Configuration	Quantity
1 bedroom	20 (28.6%)
2 bedroom	40 (57.1%)
3 bedroom	10 (14%)
Total	70

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The allocation of units across the four approved buildings within the development is shown in the table below:

	Building A	Building B	Building C	Building D	Building E	Total
1 Bed	23	23	23	23	20	112
2 Bed	46	39	36	38	24	183
3 Bed	4	5	8	5	7	29
Total	73	67	67	66	51	324

Statutory Considerations

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

Assessment

The development application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 and the following key issues emerge:

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**
This policy applies to residential flat buildings of three or more storeys and is required to be considered when assessing this application. SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing “good design”. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgment of the development application. This documentation has been submitted.

In addition, SEPP 65 requires the assessment of any DA for residential flat development against ten principles contained in Clauses 9 to 18 and Council is required to consider the matters contained in the RFDC, pursuant to the provisions of Clause 30 (2) (c) of SEPP 65. While the RFDC has since been replaced by the Apartment Design Guide for new Development Applications, the RFDC is still applicable to this application and has been considered in the assessment of the proposal, as demonstrated in the Table below. This assessment indicates that the proposal is consistent with the Rules of Thumb.

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
Building depth	10m – 18m	12m-16m	Yes

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
Building separation	<u>5-8 storeys/ up to 25m:</u> <ul style="list-style-type: none"> - 18m between habitable rooms/ balconies - 13m between habitable rooms/ balconies and non-habitable rooms - 9m between non-habitable rooms 	<p>The proposal generally achieves the required building 9m/ 13m/18m separation distances, with the provision of suitable screening devices/ window placement. This is reinforced by appropriate conditions of consent.</p> <p>It is important to note that the southern elevation follows the approved setbacks for levels five (previously level 6) down to the ground floor. The setback and separation distance for the upper floors of the approved development appear to have been approved on the basis of sharing the required separation distances with any likely future development on that land, which is an accepted practice.</p>	Yes with conditions regarding the placement of suitable privacy measures.
Communal open space	25% to 30% with a 4m minimum dimension	No change to quantum provided as five rooftop areas and four ground level courtyards under DA 509/2013.	Yes
Deep soil zone	At least 25% of Site Area	No change to quantum provided under DA 509/2013.	Yes
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter. Reduced to 2 hours in <i>dense urban areas</i> .	The site qualifies as being within a <i>dense urban area</i> and accordingly, needs only to achieve at least 70% of units with 2 or more hours of solar access.	Yes

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
	No more than 10% single aspect south facing apartments.	A total of 35 of the 254 units (13%) approved under DA 509/2013 were single aspect and south-facing. The current proposal shows that 12 of the proposed 70 units (17%) will be single aspect and south-facing, resulting 47 units (or 14.5%) in the final development.	No however, due to the restrictions imposed by the approved floorplate and orientation of the approved building, the variation is relatively minor in its context.
Natural ventilation	At least 60% of apartments are naturally cross ventilated	60% of all units are cross-ventilated.	Yes
	25% of kitchens should have access to natural ventilation.	Design of each floor of the building follows that of the approved floors below. All kitchens are less than 8m from a window with a significant proportion of units being corner units or cross-through units.	Yes
Ceiling Height	Habitable rooms – 2.7m Non-habitable – 2.4m 2 storey units – 2.7m for main living area; 2.4m for 50% of upper floor In Mixed Use areas – 3.3m for ground and level 1	Habitable rooms – 2.7m Non-habitable – 2.4m	Yes
Apartment size		All units satisfy the minimum apartment sizes specified in the Rule of Thumb in the RFDC.	Yes
Type	Area		
03.01 Studio	Internal area		
	External area		
03.02 One bedroom	Internal area		
cross through	External area		
03.03 One bedroom	Internal area		
maisonette/loft	External area		
03.04 One bedroom	Internal area		
single aspect	External area		
03.05 Two bedroom	Internal area		
corner	External area		
03.06 Two bedroom	Internal area		
cross through	External area		
03.07 Two bedroom	Internal area		
cross-over	External area		
03.08 Two bedroom	Internal area		
corner with study	External area		
03.09 Three bedroom	Internal area		
	External area		

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Item	RFDC Rules of Thumb	Proposal (New levels only)	Complies
Apartment environmental performance	Single aspect apartments limited to a depth of 8m from a window	All single aspect apartments are designed to have rooms with doors no more than 8m from a window. Internal bathrooms which are mechanically ventilated and artificially lit of some apartments have their doorways within 8m of a window.	Yes
	The back of a kitchen to be no more than 8m from a window.	No kitchen is more than 8m from a window.	Yes
	The width of cross-over or cross-through apartments over 15m deep should be 4m or more	All cross through apartments are of varying widths which equates to average apartment width of 6m.	Yes
Private open space and balconies	Balconies to be at least 2m deep	Minimum dimension of 2m achieved.	Yes
Common circulation and spaces	Maximum of eight apartments off a circulation core on a single level.	A maximum of eight units per core.	Yes
Storage	As well as kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at: - studio units = 6m ³ - 1 BR units = 6m ³ - 2 BR units = 8m ³ - 3 BR units = 10m ³	All units are provided with internal and basement storage as per the RFDC.	Yes
Pedestrian access	Barrier free access to at least 20% of units	All units are accessible via lifts and ramps.	Yes
Waste management plan	Waste Management Plan must be provided	A Waste Management Plan was provided with the original DA submission.	Yes

Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply and properties on Canterbury Road more generally. As such, the proposed development, while contemporary in design, is expected to complement and positively contribute with existing and likely future development in the locality.

Scale

The scale of the proposed development is determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within CDCP 2012. Further, Council's policy intentions are clearly stated in that a height limit of 25m was adopted by Council for the site (Council Resolution dated 9 October 2014).

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The proposal satisfies the underlying objectives of the height, building setback and separation controls applying to the land, despite the numerical non-compliance with the maximum building height as it currently stands. This numerical non-compliance is not necessarily fatal to the application and detailed consideration of this aspect of the proposal is contained further below. Notwithstanding this, the development is consistent with the scale of development identified for the future character of the locality.

Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. All dwellings are reasonable in dimension and have balconies and/or courtyards that provide reasonably good amenity and are accessible from living areas.

Density

As noted above, the scale of the proposed development is clearly determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within the CDCP 2012. No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is consistent with the type of development contemplated by the CDCP 2012 controls in a locality that is expected to undergo transition into the future.

Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

Landscape

The proposed development provides a number of good quality and functional communal open space areas including courtyards and roof terraces, in excess of the minimum requirements of the CDCP 2012 and the RFDC. Landscape treatments for the site will add to the general amenity offered to future residents and satisfy the requirements of Part 6.6 of CDCP 2012. It is also noted that the development provides good amenity for future occupants with each unit being provided with adequate and functional balcony/ terrace spaces.

Amenity

The proposed development will provide good levels of amenity for future occupants of the development, with good solar access, natural ventilation and privacy. In this regard, the proposal is generally consistent with the requirements of the RFDC. The proposed units contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

The application is also accompanied by a peer reviewed Design Verification Statement which states a number of internal changes to the units on the lower levels were undertaken specifically to improve internal amenity:

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

“The proposed amendments to the internal corners of buildings above level 5 by replanning units to relocate balconies and increase separation between private open spaces improves the visual and acoustic privacy between dwellings.

All lift lobbies, except building E have access to natural light and ventilation which is appropriate with approximately 10 units off each corridor. While Building E would benefit from access to natural light, this building has 7 units per corridor which satisfies the RFDC.

The removal of projecting forms to the north-west of buildings A-D and north-east of buildings B + D increases building separation and increases the amount of sunlight to units, as well as private and communal open spaces, while reducing the amount of blank walls.

At levels 4-7 of buildings A-D, built forms to the west have been removed and setback to maintain a consistent setback around the perimeter. This increases the amount of natural light to the units along the western facade.”

The improvement in the overall levels of internal amenity is supported, even though the amenity anticipated and accepted by both the JRPP and Council on DA-509/2013 was deemed to be acceptable and compliant with the RFDC.

Safety and Security

Satisfactory provision for security and resident/public safety is provided. The proposal does not alter the previous findings for DA-509/2013 with respect to safety and security.

Social Dimensions and Housing Affordability

The amended proposal does not alter the previous findings for DA-509/2013 with respect to the potential social impacts, housing mix or affordability. The proposal (as amended) will provide a variety of apartment layouts and an appropriate housing mix to complement the housing available within the locality and meet the anticipated future demands.

Aesthetics

The peer reviewed Design Verification Statement confirms that the proposed development achieves the design quality principles contained in SEPP 65. The overall aesthetic of the building is suitably designed and is expected to positively contribute to the desired future character of the locality.

It is noted that additional design features have been added to improve the overall design, as follows:

“The introduction of polished concrete and metal flat bar balustrades are acceptable and provide fine grain detail to the elevation and assist in reducing the amount of rendered wall surfaces.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The northern elevation has been amended to create a unified composition which is supported. The additional stepping of forms at level 2, 4, 6 + 8 has been simplified by creating an asymmetrical top to the building with a strong horizontal emphasis, by introducing a ledge and removing screens."

The proposal is generally consistent with the provisions of SEPP 65 and the RFDC prepared by the Department of Planning and Infrastructure.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**
A BASIX Certificate accompanies the development application and lists a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.
- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**
Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Council previously considered that the site held a low risk of contamination in its assessment of DA 509/2013. The proposed development does not alter the conclusions previously reached in respect of the SEPP.
- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**
State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires for the purposes of a residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

DA-509/2013 was accompanied by an Acoustic Assessment prepared which details various measures that were incorporated in the original conditions of development consent. These measures are to be incorporated into the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

In terms of Clause 104 of the SEPP, the site is located on Canterbury Road which is a Classified Road. Having regard to the Table to Schedule 3 of the SEPP, the application proposes 70 dwellings and no additional parking spaces (which are provided via the concurrent Section 96(1A) application). Accordingly, the proposal does not require a referral under this clause to the RMS, based on the size or capacity triggers contained in Columns 2 or 3 of the Table to Schedule 3.

The proposed development therefore meets the requirements of SEPP 2007. Where required, relevant conditions will need to be imposed on any development consent issued.

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal involves retaining the approved commercial uses with an additional two levels of residential apartments and modifications to the residential units on other levels, thus maintaining the approved mixed use definition and use. A mixed use development is permissible in the subject zone.

The proposal compares to the further relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development	The proposed development is permissible with development consent	Yes
Floor Space Ratio (FSR)	No FSR applies	No FSR controls apply to the B5 zone under CLEP 2012, however the application will realise an FSR of approximately 2.96:1.	N/A
Building Height	18m in Zone B5, however will be increased to 25m upon gazettal of the Draft CLEP 2012.	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – Refer to comments below.

The proposal seeks a variation to Clause 4.3(2) of CLEP 2012 relating to the height of buildings. The applicant has submitted a statement in accordance with Clause 4.6 of CLEP 2012.

Current Context to Clause 4.6 Submissions

In deciding whether a development standard, such as building height, should be modified, it is important to understand the current context surrounding Clause 4.6 submissions. The most recent and relevant matter before the Land and Environment Court has been that of *Four2Five Pty Ltd vs Ashfield Council*. A summary of this matter is provided below.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The issues arising out of *Four2Five Pty Ltd v Ashfield Council* involved the following appeals and judgements:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*Four2Five No 1*'), where the appeal against the refusal of consent was upheld, subject to conditions;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*Four2Five No 2*'), where an appeal was made pursuant to S. 56A of the Land and Environment Court Act 1979 on a point of law with respect to one of the deferred commencement conditions imposed by the Commissioner. This appeal was dismissed; and
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*Four2Five No 3*'), where leave was sought to appeal the judgment in *Four2Five No 2*' and ultimately dismissed.

In *Four2Five No 1*, the Court held that the proposed development in that case (which sought a variation to the maximum height standard in the B4 Zone) was consistent with the zone objectives and also in the public interest because it was consistent with the objectives of the standard. However, the Court held that consideration also needs to be given to whether there are sufficient environmental planning grounds to justify contravening the development standard.

In the appeal, the applicant's written Clause 4.6 submission put forward the proposition that the environmental planning grounds justifying contravening the standard were the benefits arising from the additional housing and the employment opportunities that would be delivered by the development having regard to its close proximity to railways, schools, the Ashfield town centre, etc.

The Court accepted that the proposed development would provide those public benefits but noted that any development for a mixed use in the B4 zoned land would provide those same benefits. The Court therefore held in this respect:

- That the grounds advanced by the Applicant in its Clause 4.6 submission are not particular only to the proposed development site; and
- That to accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land which is an objective of the Environmental Planning and Assessment Act 1979 (s5(a)(ii)) and which it can be assumed is within the scope of the "environmental planning grounds" referred to in clause 4.6(4)(a)(i) of the relevant Local Environmental Plan (LEP).

The Court subsequently upheld the appeal, granting a deferred commencement consent. The deferred commencement consent imposed conditions that (amongst other things), required the deletion of some of the units, thereby enforcing the height limit.

In *Four2Five No 2*, the Applicant sought to have the deferred commencement conditions relating to the deletion of the units removed, arguing that the Commissioner in *Four2Five No 1* had made an error of law in terms of the tests to be satisfied in a

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Clause 4.6 submission. The Court however upheld the Commissioner's findings with respect to the Clause 4.6 submission and dismissed the appeal.

In *Four2Five No 3*, the Applicant sought leave to appeal against the Judgement in *Four2Five No 2*, citing three grounds for appeal on a question of law. The Court refused leave to appeal, confirming the procedure and determination made by the Commissioner in *Four2Five No 1* to be correct.

The Variation Request

Clause 4.6 of the CLEP 2012 applies to this development as follows:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause (4) requires the Consent Authority to withhold development consent unless it is satisfied that:

- (4)
 - (a)
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.

In attempting to demonstrate compliance with Subclauses (3) and (4), the applicant's written submission provides the following arguments:

"To ensure a "better outcome" for the site it is proposed to make several changes to the six storey approved building on the site. In general terms these changes increase the east-west building separations to reduce the overall building form, improve solar access into east and west facing units and further enhance privacy amenity within the site. Building bulk is also reduced at the Canterbury Road elevation by narrowing the widths of the building forms. The quality of certain finishes have also been lifted to bring an overall improvement to the appearance of the development.

Small areas at the 'internal' corners of the building have been slightly increased in footprint to increase the size of these units and also to improve privacy between balconies at this location. These areas are well noted on the amended plans."

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

The applicant has also provided a table identifying a range of amendments to the proposal and the correlating benefits, such as reduced building bulk, improved public domain and improved solar access. Additionally, the applicant states that:

"...the increase in building separation will result in an improvement in solar access to some units and better privacy between units. This is a benefit and results in a better planning outcome than provided by the existing approval."

The applicant's submission also provides the following arguments to justify the variation as follows:

(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant states that the standard is unnecessary in this instance as:

- *"The application is proposing numerous design changes to the already-approved six storey development on the site. Specifically these include a reduction in floor area to increase building separation distances, improve the elegance of the overall design and provide for higher quality finishes to the building (these proposed amendments are the subject of a Section 96 application to the original consent).*
- *Taller buildings up to 25 metres are desirable for this section of Canterbury Road in order to more strongly define the urban structure of Canterbury, while at the same time complementing the taller buildings associated with institutional uses to the north-east such as Canterbury Hospital.*
- *The merits of defining the immediate locality by well-defined buildings and a taller built form have been supported by Council in its recent urban studies. In particular, that planning direction is advocated by the Canterbury Residential Development Strategy which underlies the recent planning proposal to amend Canterbury LEP to increase permissible heights on the site. "*
- *Design features including the rear laneway as shown in the DA drawings, will mitigate impacts of the development.*

The applicant also submits that Council has already deemed the approved development satisfied the objectives of the zone and that the additional residential floors and an improved building quality will not compromise the attainment of these objectives.

(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard

The applicant provides the following as environmental planning grounds to justify contravening the development standard:

- *"The development is generally within the 25m building height control as endorsed by Council at its meeting of 2 October 2014, with the exception of minor variations due to topography and the rooftop elements (which can be readily approved under Clause 5.6 of the CLEP 2012);*

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- *The proposed bulk and scale (as amended) is compatible with the future desired character of neighbouring sites along Canterbury Road and supports the mixed use pedestrian oriented centre along this transport corridor;*
- *The proposed development is compatible surrounding land uses to the rear provides an appropriate height and land use transition, with the introduction of the rear laneway providing a suitable transition between these zones; and*
- *The departure from the maximum building height will not result in any significant adverse amenity impacts such as overshadowing, privacy impacts or any significant view loss to the public domain or surrounding properties above that which is otherwise permissible under the existing controls.*
- *The context within which this proposal is made is a growing international city. Sydney will experience significant property growth in future decades and key sites in key suburbs must be developed appropriately and to their potential. As this takes place, additional services will be provided and changes to transport infrastructure will take place. This site is appropriate for this development and the traffic increases from the additional units is very modest.*
- *In addition to providing a scheme which will sit well within Council's vision for this part of Canterbury Road in terms height and density, it will provide a welcome contribution to housing needs in the area and a better street system. Sydney is in crisis and affordability is a massive issue at the heart of a housing boom."*

Having regard to the above matters and Clause 4.6(3), the applicant's written request has satisfactorily addressed the matters required to be demonstrated by sub-clause (3). It is also considered that the proposed development has sufficiently demonstrated:

- Compliance with the numerical standard is either unnecessary or unreasonable in the specific circumstances of the site, given that it satisfies the objectives of both the zone and the height standard;
- The proposal has sufficient planning merit and environmental planning grounds to warrant the variation.

In addition, strict compliance with the height standard as it currently stands, is not in the public interest, given Council's stated intentions for the Canterbury Road Corridor.

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003. In the granting of concurrence and having due regard to the provisions of Clause 4.6(5), the Secretary has determined that the use of Clause 4.6 to vary a development standard in the current context, will not be a matter of State or regional planning significance; that the public benefit of maintaining the standard does not outweigh its variation; and that there are no other relevant matters.

Having regard to the above commentary, the preceding matters arising from *Four2Five Pty Ltd vs Ashfield Council*, and Council's previous intentions to increase

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

the height limit for the site to 25m, it is considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 and vary the height standard to permit the proposed development.

Clause 5.10 of CLEP 2012

The subject site is within the vicinity of Canterbury Hospital which is listed as a Heritage item under Schedule 5 and identified as I46 on the Heritage Map (Canterbury LEP 2012). Clause 5.10 of CLEP 2012 requires consideration and assessment of the extent to which the proposed development may affect the heritage significance of the subject heritage item. In this regard, the development is contained wholly within the site and will not have a material impact on the adjacent Heritage item. The proposal is consistent with the objectives of Clause 5.10 of CLEP 2012 in that the heritage significance of the item is conserved as is the environmental heritage of Canterbury.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**

An assessment of the proposal against the requirements of Part 3 Business Centres of Canterbury Development Control Plan 2012 (CDCP) is detailed below.

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	This matter was considered in the assessment of DA 509/2013. The proposal will have no additional impact on 538-546 Canterbury Road.	Yes
Building Height	18 m (shown on CLEP 2012 Map)	Maximum of 24.475m to the top of the roofline and 28.85 to the top of the lift overrun.	No – refer to comments under CLEP 2012 and assessment of the Cl. 4.6 submission
	Floor to ceiling height in commercial min. 3.3m	N/A	N/A
	Floor to ceiling height in residential min. 2.7m	2.7 metres	Yes
	Floor to ceiling height in car parking min. 2.8m	N/A	N/A
Building Depth	Commercial component 10-24 metres	N/A	N/A
	In general, an apartment building depth of 10-18 metres is appropriate	All apartments have a depth of less than 18 metres	Yes
Building Setbacks	1-4 storeys Minimum setback of 3 m from front street boundary <ul style="list-style-type: none"> • No controls for secondary frontages 	N/A	N/A

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
	Buildings greater than 5 storeys requires an additional 5m setback (i.e. 3m +5m)	The proposed levels 7 and 8 are setback between 10.6m and 13.2m. In comparison, approved level 6 below the new floors is setback 8m from the front property boundary.	Yes
Building Separation (as per SEPP 65)	6m up to 3 storeys 12m 4 th storey 18m 5 th storey	Refer to SEPP 65 assessment	Yes
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	N/A	N/A
Design Controls	Clearly identifiable entries, Provide main common entry.	N/A	N/A
	Habitable room window to face communal areas	Habitable windows facing communal areas and perimeter of the development	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Façades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	Façade is in accordance with the articulation requirements, as outlined in this table.	Yes
Shopfront	Shop premises to present a suitable streetscape appearance and allowing adequate security	N/A	N/A
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	N/A	N/A
	Width of 3 metres	N/A	N/A
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the façade, including the quality and durability of its materials, should be emphasised.	The façade is of a high architectural standard. Materials used are of a high quality and are durable.	Yes
	The 'façade' should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 m with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Vertical emphasis is provided with appropriate modulation through the use of varying materials and external finishes.	Yes

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road	Yes
	Balconies should be used in moderation and be integrated into the overall composition of the façade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the façade. There is adequate variety in the balconies configuration between the lower and upper levels of the development.	Yes
	The majority of windows shall be vertically rectangular	Majority of windows are vertically rectangular	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	Roof structure takes advantage of the northerly aspect to the front of the site to provide maximum solar access with eaves provided at appropriate locations for shading purposes	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Adequately screened	Yes
	Discretely locate mailboxes in front of property	N/A	N/A
	Performance Controls		

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Standard	Requirement	Proposed	Complies
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design has adequately addressed visual privacy issue through window placements and sufficient setbacks with the adjoining property. Floor layouts from approved units below have generally been adopted.	Yes
Private Open Space, Balconies, terraces and Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space.	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for 2 and 3 bedroom dwellings with minimum depth of 2 metres	Balconies provide the minimum private open space requirements with adequate depth. Condition to be imposed requiring all units to comply with this requirement.	Yes
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies.	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room.	Yes
	Primary balconies to have minimum depth of 2 m and be functional in dimensions	Minimum depth of 2m and functional in design.	Yes
	Design and detail balconies in response to local climate	Balconies have been designed where achievable to have northern orientation to maximise solar access.	Yes
	Storage: 6m ³ / 1 bedroom unit 8m ³ / 2 bedroom unit 10m ³ / 3 bedroom unit	To be imposed as a condition of consent.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 827.5sqm)	No change to ground floor areas. Rooftop spaces duplicated from DA 509/2013.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes
Housing Choice	10% minimum of each bedroom configuration	20 x 1 Bed = 28.6% 40 x 2 Bed = 57.1% 10 x 3 Bed = 14.3%	Yes
	10% of dwellings are adaptable	10% of the units are accessible and adaptable apartments in accordance with the DCP provisions.	Yes

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Part 6 – General Controls

The proposed development compares to Part 6 of CDCP 2012 as follows:

Part 6.1 Access and Mobility

The Disability Access Committee provided its comments in relation to the original development that was the subject of DA-509/2013. The Committee raised no objection to the development proceeding subject to the imposition of conditions of consent, and requirement that the development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code. The nature of the proposal is such that it does not raise any issues not already foreseen by the Committee.

Part 6.2 Climate and Resource Efficiency

Part 6.2.6 and 6.2.7 provide requirements governing solar access and natural ventilation. These standards are generally higher than those contained within SEPP 65. The proposal satisfies the requirements for solar access and natural ventilation and given that the SEPP overrides the DCP control, the proposal is considered acceptable in this instance.

Part 6.3 Crime Prevention Through Environmental Design

The two additional floors will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

- The upper units in the proposed mixed use development contain residential units that address the street;
- The parking area does not dominate the development as it is provided at basement level;
- The proposal provides clearly delineated access points;
- Secure basement access and access to the dwellings is proposed;
- Each communal open space provides different features in terms of use and landscaping to give a sense of ownership; and
- The access arrangement is appropriate to service the number of units within each block.

Part 6.4 Development Engineering, Flood and Stormwater

The proposal will connect into the approved stormwater infrastructure proposed and approved under DA 509/2013. No objections have been raised by Council's Development Engineer, subject to conditions being attached to any consent granted.

Part 6.6 Landscaping and Part 6.7 Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by Council's Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being imposed on any consent issued.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Part 6.8 Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

Requirement	Proposal	Complies
Residential Units: 20 x 1 BR (@ 1 space/ unit) 46 x 2 BR (@ 1.2 spaces/ unit each, with the 0.2 as common) 4 x 3 BR (@ 2 spaces/ unit) = (20+46+8) = 74 +9.2 common spaces = 83.2 spaces (83)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
Visitor – 14 spaces (@one 1 space / 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
One car wash bay	As part of total development	Yes
Resident bicycle spaces – 14 spaces (@1 space/ 5 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)
Visitor bicycle spaces – 7 spaces (@1 space/ 10 units)	Nil but refer to S.96(1A) to DA 509/2013	No. See Comment (1)

The details provided by the applicant of the proposed car parking allocations across DA-509/2013, the subsequent Section 96(1A) application and this DA appears confusing. Therefore, in order to understand the overall level of compliance when seen as a completed development, the following table has been prepared.

Parking Summary: DA 509/2013 modified by S96 (1A) + DA 592/ 2014		
Requirement	Proposal	Complies
Residential: Resident Parking = 322+83=405	322+79 = 401	No – 4 spaces shortfall. See Comment (1)
Visitor parking (resident) = 51 + 14 =65	54 (shortfall of 12 spaces)	No – 11 spaces shortfall. See Comment (1)
Total Residential = 405+65 = 470	401+54 = 455	No – 15 spaces shortfall. See Comment (1)
Commercial: Commercial parking = 26	26	Yes
Ancillary spaces (wash bay + courier) = 1+1 = 2	2	Yes
Total parking all uses = 470+26+2 =498	483	No – 15 spaces shortfall. See Comment (1)
Bicycle spaces: Resident = 51+14 = 65 Resident visitor = 25+7 = 32 Commercial = 3 Commercial visitor = 2 Total = 65+32+3+2 =102	51+ 49=100	No – 2 spaces shortfall. See Comment (1)

Note: Figures in both tables are based on the unit mix derived from the submitted plans due to inconsistencies in the supporting documentation.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

(1) Car Parking/Bicycle Storage

Despite the shortfall in car and bicycle spaces provided, the proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Appropriate conditions have been included in the consent to ensure the appropriate provision and allocation of parking spaces. This will require the submission of new drawings prior to the issue of the construction certificate, demonstrating how the additional parking is to be provided.

The applicant has also submitted a Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd, which includes a SIDRA analysis of the operational network performance of the surrounding roads. The SIDRA analysis indicates that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. Council's Traffic Engineer has also reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal. It is also noted that in the RMS did not raise any objections to the DA 509/2013, imposing a range of standardized conditions.

Part 6.9 Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant. However, concerns were raised in regard to the size and design of the residential and commercial waste bin holding areas. These concerns have been included and imposed as conditions of consent, ensuring that the on-going and operational waste management procedures of the development is satisfactory and is in accordance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves 28 x one bedroom dwellings, 38 x two bedroom dwellings and four x three bedroom dwellings to the site which attracts a contribution of \$842,872.56. This contribution is subject to indexing.

Other Considerations

- **Acoustics**

Given the location of the site located along a busy road, the application has been accompanied by an Acoustic Assessment prepared by Acoustic Logic dated 20 June 2013 which details various measures that are to be incorporated in the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

- **National Construction Code**

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed; including that full compliance with the National Construction Code is to be achieved.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Referrals

- Roads and Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

Notification

The development application was advertised in the local newspaper and notified to adjoining and nearby property owners between 20 October 2015 and 18 November 2015 in accordance with Part 7 – Notification of Development Applications of Canterbury Development Control Plan 2012. Council received three submissions objecting to the proposal. The submissions raised the following issues of concern, which are discussed below:

- The area is already overdeveloped and traffic is at near gridlock levels. The proposal is not in the best interests of the local community**

Comment

The proposed development, in terms of bulk and scale, is different to existing development in the locality, nevertheless, it is consistent with Council's adopted new planning controls in the CLEP 2012 and the CDCP 2012. Although the increase in height for this site was excluded from the last LEP amendment, it demonstrates a clear intention by Council to increase the height and development potential of buildings along the Canterbury Road Corridor in order to see viable redevelopment occur. The proposal will result in a development that represents the desired future character along the Canterbury Road Corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

With respect to traffic movements, it is acknowledged that a development of this scale will result in some increased traffic movements in the immediate locality. The Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd also includes a SIDRA analysis of the operational network performance of the surrounding roads and makes the following comments with respect to this issue:

"Accordingly, it is likely that the proposed development will result in an increase in the traffic generation potential the site of approximately 20 vph ...

That projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity.

The results of the SIDRA analysis of the Canterbury Road & Elizabeth Street intersection are summarised on Table 3.1 below, revealing that:

- under the projected future traffic demands expected to be generated by the previously approved development proposal, the Canterbury Road & Elizabeth Street intersection is expected to operate at Level of Service "A", with average vehicle delays in the order of 6 seconds/vehicle*

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- *under the projected future traffic demands expected to be generated by the new revised development proposal, the Canterbury Road & Elizabeth Street intersection is expected to continue to operate at Level of Service "A", with increases in average vehicle delays of less than 1 second/vehicle.*

In the circumstances, it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity."

Council's Traffic Engineer has reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal.

- **The Draft LEP Amendment has not yet been gazetted and the development is contrary to the Canterbury Road Masterplan which envisaged higher buildings at major intersections and lower buildings between nodes with a maximum height set at 18m.**

Comment

As discussed above, the Draft LEP, which (amongst other things) sought to increase the maximum height from 18m to 25m was gazetted in March 2015, excluding the proposed height limit for this site and others in order to progress the other housekeeping amendments. This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor. It is also noted that despite the RMS expressing these concerns and requesting any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road, Council is not automatically precluded from assessing the individual merits of a proposal.

The proposal is consistent with both Council's stated policy intent and previous resolutions to pursue increased densities along the Canterbury Road Corridor, and SEPP 65 as assessed above, and the Clause 4.6 submission has demonstrated that the development satisfies the relevant statutory planning matters.

The Canterbury Road Master Plan, while it has informed the controls in the CDCP 2012, is not in itself a statutory document and has been superseded by the Residential Development Strategy. The Master Plan does advocate higher intensity mixed use development at key nodes or key centres/ villages, however a node is not synonymous with a street intersection. In the context of the Master Plan, the site lies within the Hospital Precinct, however there are no specific provisions limiting the height of development on the site.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- **Clause 4.6 is only for relatively minor outcomes, while the proposal represents a significant exceedance and does not create any public benefit.**

Comment

Clause 4.6 is not designed to ensure only “minor” variations to development standards and does not contain any language that implies a numerical limitation must be applied in the consideration of a variation to a development standard. This is supported by the NSW Department of Planning and Infrastructure’s publication “Varying development standards: A Guide” (August 2011) which likewise does not state or imply numerical limitations should be adopted. Further, there is a substantial body of case law in the NSW Land and Environment Court, including *Panarea Investments Pty Ltd 23 v Manly Council* [2015] NSWLEC 1026 which establish that there is no requirement that the variation be only “minor”.

The applicant has also submitted a written submission in accordance with Clause 4.6 of CLEP 2012 addressing the proposed height variation. Having reviewed the Clause 4.6 submission against the relevant statutory matters that must be considered in the determination of this variation, it is considered that the applicant has adequately demonstrated that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standard; and
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 4.6 does require an applicant to prove that a proposal creates a public benefit. The concept of “public benefit” has evolved out of the judgment of the Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 where the Commissioner stated that a development must demonstrate what the environmental planning grounds for a variation were particular to the site in question. This has been demonstrated in the applicant’s submission in this instance.

- **The development will be an ugly prominent mass with ugly balustrades that will impact on privacy.**

Comment

The additional floors, accompanied by the increased setbacks to the side boundaries under the Section 96 (1A) application currently under assessment by Council, will not result in any loss of privacy to adjoining properties. Likewise, the improved finishes and materials as proposed under the Section 96 (1A) application, will result in a development that is consistent with the desired future character with sufficient modulation, visual interest and design features.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- **The proposal does not provide open space suitable as children's play areas where they can kick a ball.**

Comment

The proposal satisfies the requirements in terms of quantum and quality of common open space areas contained in the RFDC and the CDCP 2012, providing a range of recreational experiences and facilities.

- **The proposal does not contemplate the residential potential for the pocket of industrial land to the south, known as the Harp Street Site and will restrict the feasible development of this land for residential purposes.**

Comment

The proposal is for an additional two floors on an approved mixed use building. The approved building limits the ability to modify the proposed development any further than it has and the consideration of amenity impacts is appropriate to the land use activities currently occurring on the adjoining industrial land.

While foreshadowed, Council has not received any applications seeking to rezone or redevelop the adjoining Harp Street industrial area. This area was specifically excluded from Council's Residential Strategy and the Canterbury Road Master Plan given the historical use as a quarry and associated poor subsoil conditions, with the report to the Extraordinary Meeting of Council on 31 October 2013 noting that the Harp Street site has limited land use potential. The proposal is deemed to have shown due regard for the potential of the Harp Street site, given its current use and zoning. It should be noted that there are no guarantees that any proposal to redevelop this land will eventuate and no statutory obligation to consider hypothetical development outcomes that are not consistent with a site's zoning.

- **Shadow diagrams were not available for viewing through the notification period and it was not possible to determine the potential shadow impact.**

Comment

The shadow diagrams submitted with both DA-509/2013 and DA-592/2014 have both been considered in this assessment. Although the objector's planning consultant may not have viewed the shadow diagrams, this does not prevent Council from undertaking an assessment and forming an opinion on the level of impact.

In terms of the additional impact on adjoining residential properties, the proposal will not have any significant adverse impact on solar access, with the dwellings along the south eastern side of Chelmsford Avenue and north eastern side of Elizabeth Street still achieving at least 3 hours solar access during midwinter.

The bulk of the shadow cast by the additional floors will fall over the adjoining industrial land at 11-13 Harp Street. Neither SEPP 65 nor the CDCP 2012 contain any solar access standards for industrial land.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- **The Clause 4.6 submission is being used inappropriately to make incremental changes to a development standard which should be the subject of an LGA-wide LEP amendment, as held in *Winten Property Group v North Sydney Council* (2001) NSWLEC 46, which states “Furthermore it is now established that although the discretion conferred by SEPP 1 is not to be given a restricted meaning and its application is not to be confined to those limits set by other tribunals in respect of other legislation, it is not to be used as a means to effect general planning changes throughout a municipality such as are contemplated by the plan making procedures set out in Part III of the Environmental Planning and Assessment Act.”**

Comment

Firstly, although the objector’s planning consultant quotes the judgment from *Winten Property Group v North Sydney Council* (2001) NSWLEC 46, the actual text quoted is in from another case, *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986) that was quoted by the Senior Commissioner in the *Winten* matter. The contention raised by the objector also overlooks the fundamental basis of Clause 4.6, which is:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”

The application does not seek to make incremental changes as there are no previous applications that have sought increases in the building height. Further, the proposed development only seeks to vary the height development standard as it applies to the subject development. That Council sought to increase the height limit on a number of properties within the Canterbury Road Corridor, and adopted a policy stance in that regard, does not preclude the applicant from seeking to vary the height development standard.

It is also considered that the applicant’s submission has been prepared in accordance with the NSW Department of Planning and Infrastructure’s publication “Varying development standards: A Guide” (August 2011). The matters identified in the Guidelines are consistent with the SEPP 1 objection principles identified in the *Winten* matter and the five part test developed in *Wehbe V Pittwater [2007] NSW LEC 827*.

- **The proposal does not have adequate setbacks from the rear laneway to ensure privacy to future residential development on 11-13 Harp Street.**

Comment

The JRPP considered the separation distances and setbacks of the proposal in its approval of DA-509/2013 and found the original development – including the separation provided by the laneway to be suitable, resulting in the approval of that application. The proposal satisfies the setback and separation distance criteria and objectives as contained within both the RFDC and the CDCP 2012.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- **The proposal does not demonstrate any tangible public benefit and the proposal should provide a pedestrian link between Harp Street and Canterbury Road to facilitate the future development of the Harp Street site.**

Comment

Considering the proposal is for an additional two floors to a building approved under another development application, the request to amend this proposal to include a pedestrian link has no enforceable nexus to the application currently before Council. Further, the objector's planning consultant has failed to demonstrate that such a request in itself has any public benefit, other than that it would facilitate the development of private land. It should also be noted that there is no statutory requirement for a development to provide a "public benefit", albeit that the benefit would simply be to facilitate pedestrian access to the northern portion of the objector's land.

- **The Roads and Maritime Authority (RMS) has previously raised concern about the unacceptable traffic impacts resulting from the increased residential density on the site, resulting in Council omitting the 25m height control for the site from the Draft LEP, which was finalised in March 2015.**

Comment

As discussed previously, the Draft LEP sought (in part) to increase the maximum height of a number of sites within the Canterbury Road Corridor, as well as undertake range of housekeeping amendments. Following objections from the RMS, Council determined to exclude a number of specific sites from the Draft LEP, including the subject site.

This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor.

It is also important to note that the RMS specifically requested that any subsequent development of the site assess the traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road. This has been undertaken, as demonstrated by the Revised Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd. This assessment includes a SIDRA analysis of the operational network performance of the surrounding roads, stating that the SIDRA analysis shows the proposal "*will not have any unacceptable traffic implications in terms of road network capacity.*"

Although the RMS has expressed concerns with Council's stated intentions to increase the height and density of development along the Canterbury Road Corridor, and are in the process of conducting a regional network review, this does not preclude a merit assessment of the proposal, as required under Clause 4.6 of the CLEP 2012. The assessment of the applicant's written submission demonstrates that the proposal has sufficient planning merit to warrant approval.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Conclusion

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support. The proposed development is well designed in providing good amenity for future occupants of the subject dwellings, and minimising impacts onto neighbouring residents. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the Canterbury Road corridor and indeed the local built environment. As such, it is recommended that the development application be approved subject to conditions.

RECOMMENDATION:**THAT**

- A. The Clause 4.6 submission to vary Clause 4.3 of the Canterbury Local Environmental Plan 2012 be supported.
- B. Development Application DA-592/2014 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of the relevant Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan including method of shoring during excavation
 - Protection from termites
 - Building Specifications
 - Fire Safety Schedule
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Section 73 Compliance Certificate
 - Soil and Waste Management Plan
 - Mechanical Ventilation of Basement Carpark
 - BASIX Certification
 - Compliance with Disability (Access to Premises – Buildings) Standards 2010.
 - Evidence of compliance with Condition No's. 5, 6, 14, 41, 42, 44, 60 and 61 of this consent.
 - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
 - 1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3328.00
Section 94 Contributions	\$842,872.56
Certificate Registration Fee	\$36.00
Long Service Levy	\$42,013.10
Long Service Leave Levy Fee	\$19.80

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

1986.

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 5: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
 - 2.1. detailed plans and specifications of the building must be endorsed with the relevant Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
 - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

SITE SIGNAGE

3. A sign shall be erected at all times on your building site in a prominent position stating the following:
 - 3.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
 - 3.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
 - 3.3. That unauthorised entry to the work site is prohibited.

DEMOLITION

4. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- 7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
- No demolition is to be carried out on Sundays or Public Holidays.
- (f) Burning of demolished building materials is prohibited.
 - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
 - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
 - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
 - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
 - (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
 - (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at www.lead.org.au.
 - (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
 - (p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

GENERAL

5. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
DA10 Issue F	25.10.2015	Geoform Architects	15 Oct 2015
DA11 Issue F	25.10.2015	Geoform Architects	15 Oct 2015

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

DA12 Issue E	10.9.2015	Geoform Architects	15 Oct 2015
DA21 Issue E	10.9.2015	Geoform Architects	15 Oct 2015
DA22 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA23 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA24 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA25 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA26 Issue F	10.9.2015	Geoform Architects	15 Oct 2015
DA27 Issue F	10.9.2015	Geoform Architects	15 Oct 2015

6. Prior to the issue of a Construction Certificate, the applicant shall prepare and submit to Council for approval, full architectural drawings demonstrating that all car parking and bicycle parking spaces are provided in accordance with the provisions of Canterbury Development Control Plan 2012 as follows:

Allocation	Number of Spaces
Car Parking:	
Resident parking	405
Visitor parking for residents	65
Commercial parking	26
Ancillary spaces (1 x wash bay + 1 x courier space)	2
Total Car Parking:	498
Bicycle spaces:	
Resident	65
Resident visitor	32
Commercial	3
Commercial visitor	2
Total Bicycle Parking:	102

The drawings must also demonstrate the allocation of car parking spaces and bicycle spaces is in accordance with the provisions of Canterbury Development Control Plan 2012.

If the development is to be strata subdivided, the car park layout must respect the above allocation.

7. A construction Certificate shall not be issued until such time as a Construction Certificate has been issued for DA-509/2013 relating to the construction of a six storey mixed use development on the subject site.
8. All car parking associated with the development must be accommodated on site.
9. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004. All disabled parking space dimensions, cross-falls; vertical clearances for access paths and above spaces are to be in accordance with the requirements of AS2890.6.
10. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
11. All bicycle spaces are to be provided in accordance with AS2890.3.
12. All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
13. Parking facilities/storage for 97 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the development (total of 102 spaces). These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.
14. Renewal or provision of fencing, attributable to the proposed development being the

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

responsibility of the developer.

15. The bathroom and ensuite window(s) being translucent glass.
16. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of \$842,872.56 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$76238.38
• Community Facilities	\$745188.72
• Plan Administration	\$21445.46

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

17. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
18. An intersection design is to be submitted to Council's City Works Department prior to the issue of a Construction Certificate for the intersection of Elizabeth Street and Canterbury Road prohibiting a right turn by way of signage and a seagull island. The applicant/developer is to bare cost of such works which must be completed to the satisfaction of the Director of City Works prior to the issue of an Occupation Certificate.
19. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
20. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
21. All building construction work must comply with the National Construction Code.
22. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
23. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
24. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
25. A copy of the Soil and Water Management Plan must be kept on site at all times and

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- made available to Council officers on request.
26. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
 27. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
 28. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
 29. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
 30. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
 31. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 32. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
 33. Toilet facilities shall be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the NCC.
 34. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
 35. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
 36. Payment of an additional garbage levy for each new dwelling upon completion of work.
 37. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
 38. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
 39. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development shall comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).
Construction periods of 4 weeks and under:
 The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

Construction periods greater than 4 weeks and not exceeding 26 weeks:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.

40. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

DILAPIDATION AND EXCAVATION

41. A photographic survey of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 11 Harp Street, Campsie detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
42. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties at 538-546 Canterbury Road, 5 Elizabeth Street, 570-572 Canterbury Road and 11 Harp Street, Campsie and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant.

LANDSCAPING

43. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-509/2013. The landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B and submitted to council on 30th May 2014) is a satisfactory landscape proposal for this development.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

44. Prior to the issue of the Construction Certificate, details shall be submitted to the Principal Certifying Authority confirming that all landscaping shall be installed in accordance with the landscape plans and details approved on DA-509/2013, these being the landscape plan (drawn by A Total Concept Landscape Architects and Swimming Pool Designers, Project No PBD L01-L03 Rev B dated 19 June 2014 and submitted to council on 30 May 2014).
45. Prior to the issue of the Construction Certificate, the following must be updated/provided:
 - 45.1. Planting along the 3m setback within the boundary along Canterbury Road. This may in the form of garden beds or low level plantings in line with those proposed within the development.
 - 45.2. A landscape technical specification must be included in the landscape plan.
 - 45.3. The landscape plan must also be accompanied by a maintenance schedule for 52 weeks post practical completion which includes the following:
 - a. replacement strategy for failures in plant materials and built works,
 - b. maintenance schedule for watering, weeding and fertilizing during the establishment period.

STORMWATER ENGINEERING

46. The stormwater system be constructed in general, in accordance with the plans, specifications and details received by Council on 19th November, drawing numbers SW00 B, SW02 B, SW03 B, SW04 B, SW05 B ; prepared by SGC and as amended by the following conditions.
47. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
48. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
49. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
50. Where OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

- registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
52. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5 m at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
 53. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
 54. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, car parks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
 55. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
 56. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".

PUBLIC IMPROVEMENTS

57. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
58. The reconstruction of the kerb and gutter along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
59. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road and Elizabeth Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
60. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

WASTE MANAGEMENT

61. Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:
 - 61.1. Plans demonstrating that an additional 45 x 240L rubbish bins (compacted at 2:1 ratio and collected twice weekly) and 60x 240L recycling bins (collected twice weekly) can be accommodated within the waste bin storage rooms. Bins

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

must be collected from and returned to the waste bin storage rooms by Council's waste collection contractor. The bins must not be presented on the roadway.

- 61.2. The waste bin storage rooms are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
- 61.3. Unobstructed and unrestricted access must be provided to the waste bin storage rooms on collection days from 5.00am.
- 61.4. The owner of the development must indemnify Council's waste collection contractor against damage that may result from their entry onto the property to collect waste bins. Council's standard indemnity form shall be completed and returned to Council prior to the site being occupied.

CRIME PREVENTION AND COMMUNITY SAFETY

- 62. All access points to the building (this would include lifts and stairwells) are to be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
- 63. The storage units located in the vicinity of the car spaces be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.
- 64. Lighting similar to category P1 of Australian Standard 1158.3.1:1999 for road lighting of pedestrian areas should be installed.
- 65. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.
- 66. In addition to existing lighting, sensor spot lights be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
- 67. Mirrors must be strategically erected around the site to assist with blind corners and increase natural surveillance.
- 68. Residents are to be made aware of our Home and Street Safety Kit which provides practical tips on how to increase community safety for our residents.
- 69. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
- 70. Signage is to be installed at all driveways, entry and access points.

DISABILITY ACCESS

- 71. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.
- 72. To fulfil the requirements of the Disability (Access to Premises – Buildings) Standard and AS1735, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100mm x 550mm must be provided. Details shall be provided with the application for the Construction Certificate.
- 73. To comply with the requirements of Part 7.5.1 of AS1428.1, all glazed doors and panels on a continuous accessible path of travel are to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings when viewed from either the inside or outside of the door. Details and compliance with this requirement shall be provided with the application for the Construction Certificate.

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

74. The development must wholly comply with all requirements of the Disability Discrimination Act 1992, Disability (Access to Premises – Buildings) Standard (2010), National Construction Code, AS1735.12: Lifts, Escalators and moving walks and Part 12: Facilities for persons with disabilities, at all times.

ACOUSTICS

75. Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic dated 20 June 2013, submitted with DA-509/2013, have been incorporated in the final design of the building.
76. Within thirty (30) days of the commencement of operations of the use of the premises, an acoustic compliance test is to be carried out by an acoustic engineer without the prior knowledge of the Management of the premises at the applicant's expense. Council will make arrangements for access to the nearest residential premises and a Council Officer will be in attendance during the testing procedure. The compliance test is to determine the effect the activities on the amenity of the residential neighbourhood. If the effectiveness of the measures implemented to minimise any noise do not meet the required standard, then additional works need to be undertaken to bring the premises up to the required standard as recommended by the acoustic engineer.

SYDNEY WATER REQUIREMENTS

77. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

CRITICAL INSPECTIONS

78. The following critical stage inspections must be carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):
- Class 2, 3 or 4 Buildings
- 78.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 78.2. prior to covering any stormwater drainage connections, and
- 78.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- Class 5, 6, 7, 8 or 9 Buildings
- 78.4. prior to covering any stormwater drainage connections, and
- 78.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

ADDITIONAL INSPECTIONS

79. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

80. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

WE ALSO ADVISE:

81. This application has been assessed in accordance with the National Construction Code.
82. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
83. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air Handling Systems
 - Final Fire Safety Certificate
 - Glazing
 - BASIX completion
 - Water Proofing
84. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
85. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
86. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can affect layout of garden beds and plantings.
87. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
88. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act" and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
89. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
90. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
91. If you are not satisfied with this determination, you may:
- 91.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
 - 91.2. Appeal to the Land and Environment Court within 6 months after the date on

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

IHAP ASSESSMENT AND RECOMMENDATION

The Independent Hearing and Assessment Panel considered the application on 23 November 2015, and their assessment and recommendation is provided below.

Panel Assessment

The Panel has considered both these matters (DA-592/2014 and DA-509/2013/A) together especially as development application DA-592/2014 (extra floors) depends on modification application DA-509/2013/A being approved (extra parking). Both these applications build on the existing development consent approved by the JRPP for the site. The Panel is of the opinion that these matters should be adjourned to enable the RMS to be fully consulted about the total development of the site.

The LEP history is relevant to consider and the Panel notes that:

- a) Council's resolution to increase the height was in October 2013;
- b) The Planning Proposal for this was referred to the Department of Planning for Gateway determination after October 2014 (Draft LEP);
- c) The RMS raised concerns about the increased height on the site without further specified information;
- d) The Council then omitted the site from the Draft LEP;
- e) The omitted sites including this site has not been picked up in any new Draft LEP;
- f) Therefore the only support in the increase in height is the original resolution of Council in October 2013.

The Panel was advised that there is no current proposal to include this site in any planning proposal to increase the height controls.

This history indicates that the Council resolution would only be relevant as a policy which without further consideration, by at least the RMS, must be given little weight in the determination of these development applications, one of which breaches the 18m height limit significantly. The previous comments from RMS included:

"... has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed."

The Panel is of the opinion that the traffic impacts raised by the RMS should be fully investigated and considered. The Panel notes the objective of clause 101 of SEPP (Infrastructure) to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads.

The Panel is of the opinion that the Council could not form the required satisfaction under clause 101(2) of the SEPP that safety, efficiency and ongoing operation of the classified road would not be adversely affected by the redevelopment as a result of the nature, volume or frequency of vehicles using the classified road to gain access to the

CITY DEVELOPMENT COMMITTEE

3 DECEMBER 2015

548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS (CONT.)

land from the total development proposal for this site.

In addition the Panel is of the opinion that the Council cannot legally determine the development application until both the development application and the Section 96 modification application have been referred to RMS under clause 104 of the SEPP either because the DA/Section 96 (which relies on the existing consent) is for *new premises* under clause 104(1)(a) or they propose *an enlargement/extension of existing premises* under clause 104(1)(b). The Panel notes that the updated VARGA traffic report provided by the applicant has not been referred to the RMS and this can be part of the referral to the RMS. Finally the Panel notes there is a proposed condition (18) for intersection works at Elizabeth Street and Canterbury Road and the Panel questions if this should also be considered by and referred to the RMS.

The Panel also notes that it was not satisfied with the justification for a variation of the height under clause 4.6, particularly having regard to the requirements of clause 4.6(3)(a) (development standard is unreasonable and unnecessary and the circumstances) (b) (sufficient environmental planning grounds to justify contravening the development) especially having regard to the recent cases referred to in the report. The context for the Panel's position reflects that the proposal exceeds the height limit (of 18m) by some 25-30% and involves the addition of two further basement car parks and two further residential levels to an existing non-complying building.

IHAP Recommendation

THAT Development Application DA-592/2014 be **DEFERRED** until the application has been referred to the RMS.

CITY DEVELOPMENT COMMITTEE**3 DECEMBER 2015****MINUTES OF THE MEETING OF THE CITY DEVELOPMENT COMMITTEE,
HELD IN THE COUNCIL CHAMBERS, 137 BEAMISH STREET, CAMPSIE ON
THURSDAY, 3 DECEMBER 2015 AT 8.35 P.M.****PRESENT**

Councillor M. Hawatt, in the Chair, the Mayor, Councillor B. Robson, the Deputy Mayor, Councillor K. Saleh and Councillors P. Azzi, L. Eisler, F. Kebbe, K. Nam, E. Paschalidis-Chilas and C. Vasiliades.

The Chairperson acknowledged the traditional owners of the land on which we meet and paid respect to any people present and to their elders both past and present.

In terms of authority delegated to it by Council (refer Minute No. 69, 21 March 2013) the Committee resolved the following matters.

CONFIRMATION OF MINUTES

Min. No. 458 RESOLVED (Councillors Azzi/Nam)

THAT the Minutes of the Meeting of the City Development Committee held on 12 November 2015, numbered 416 to 434, copies of which were previously circulated to the Councillors, be taken as read and confirmed.

APOLOGY

An apology tendered on behalf of Councillor M. Adler was received and leave granted.

OFFICERS REPORTS

1 DEVELOPMENT APPLICATIONS DETERMINED BY COUNCIL
OFFICERS UNDER DELEGATION

FILE NO: D-4-8 PT4

Min. No. 459 RESOLVED (Councillors Azzi/Kebbe)

THAT the report be noted.

CITY DEVELOPMENT COMMITTEE**3 DECEMBER 2015**

Council's various Codes and Policies.

77. If you are not satisfied with this determination, you may:

- 77.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
- 77.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Saleh	
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

10 INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 23 NOVEMBER 2015

FILE NO: D-6-9 PT11

Min. No. 468 RESOLVED (Councillors Azzi/Kebbe)
THAT the report be noted.

Declaration of Interest

Councillor Vasiliades declared a pecuniary conflict of interest in the following item and stated the nature of the interest as being the recent sale of the property by his company. Councillor Vasiliades left the Council Chamber at 8.45 p.m. prior to consideration of the matter.

11 388-394 CANTERBURY ROAD AND 1-1A ALLEN STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONTAINING TWO LEVEL BASEMENT CARPARK, GROUND FLOOR COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS

FILE NO: 150/388D PT3

Min. No. 469 RESOLVED (Councillors Azzi/Kebbe)
THAT Development Application DA-335/2014 be **APPROVED**, subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan including method of shoring during

CITY DEVELOPMENT COMMITTEE**3 DECEMBER 2015**

- and plantings.
100. Before you dig, call “Dial before you Dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
 101. Compliance with the National Construction Code does not guarantee protection from prosecution under “The Disability Discrimination Act” and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
 102. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
 103. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
 104. If you are not satisfied with this determination, you may:
 - 104.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
 - 104.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.
- C. The IHAP recommendation was not accepted as the Committee had concerns with regard to the legal impact adoption of the IHAP’s recommendation would have on the status of the current development consent for the site.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Saleh	
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

- 17 **548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING**
 FILE NO: 150/548D Pt3 & 4

Min. No. 475 RESOLVED (Councillors Azzi/Saleh)
 THAT

- A. The General Manager be authorised to issue the consent for modification application DA 509/2013/A, once concurrence is received from the RMS, subject

CITY DEVELOPMENT COMMITTEE**3 DECEMBER 2015**

to the conditions as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.

- B. The Committee decided not to accept the IHAP recommendation given that the application has now been referred to the RMS, and resolved to accept the Officer's recommendation.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Saleh	
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

- 18 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS**
 FILE NO: 150/548D PT 3 & 4

Min. No. 476 RESOLVED (Councillors Azzi/Nam)
 THAT

- A. The General Manager be authorised to issue the consent for DA 592/2014, once the suitable concurrence is received from the RMS, subject to the conditions as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.
- B. The Committee decided not to accept the IHAP recommendation given that the application has now been referred to the RMS, and resolved to accept the Officer's recommendation.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Saleh	
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

CITY DEVELOPMENT COMMITTEE**3 DECEMBER 2015**

Prior to consideration of the following item Councillor Hawatt vacated the Chair at 9.13 p.m. The Mayor, Councillor Robson assumed the Chair.

Declaration of Interest

Councillor Hawatt declared a less than significant non-pecuniary conflict of interest in the following item and stated the nature of the interest as being a family connection. Councillor Hawatt left the Council Chamber at 9.14 p.m. prior to consideration of the matter and did not return.

8 31 PENSURST ROAD, ROSELANDS: DEMOLITION, CONSTRUCTION OF DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION
 FILE NO: 690/31D

Min. No. 477 RESOLVED (Councillors Azzi/Vasiliades)

THAT the Development Application DA-276/2015 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Protection from termites
 - Structural Engineering Plan
 - Building Specifications
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Soil and Waste Management Plan
 - BASIX Certificate
 - 1.2. Evidence of an Owner Builder Permit (Class 1 & 10 buildings only); or Evidence of a Home Building (Private) Insurance Certificate.
 - 1.3. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
 - 1.4. Payment to Council of:

Kerb and Gutter Damage Deposit	\$ 2723.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$ 2723.00
Section 94 Development Contributions	\$ 18894.84
 - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$ 3260.00
Inspection Fee	\$ 1230.00
Occupation Certificate Fee	\$ 252.00

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986.

Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 3: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Statewide Planning Pty Ltd
509/2013/A
PO Box 411
PARRAMATTA NSW 2124

Application No.: DA-

File No.: 150/548D PT4
CDC031215

NOTICE OF MODIFICATION OF DEVELOPMENT APPLICATION

Property: 548-568 Canterbury Road, Campsie

Development: Modification to mixed use building including additional basement parking

Canterbury City Council as consent authority under the provisions of the Environmental Planning and Assessment Act 1979, gives notice that the request to modify the Development Application described above was determined on 3 December 2015 in the following manner:

THAT Development Application DA-509/2013/A for a Section 96(1A) modification relating to alterations and additions to an approved mixed use building at 548-568 Canterbury Road, Campsie be **APPROVED**. The modifications relate to an extension to basement level 3 and modifications to a number of units on each floor of the building. These modifications are recommended for approval, subject to conditions of the original approval with exception to conditions 5, 10, 14 and 17 which are modified as follows:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
GENERAL

5. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Dated	Prepared by	Received by Council on
S96-01 Issue E	September 2015	Geoform	15 October 2015
S96-02 Issue E	September 2015	Geoform	15 October 2015
S96-03 Issue E	September 2015	Geoform	15 October 2015
S96-04 Issue F	September 2015	Geoform	15 October 2015
S96-05 Issue F	September 2015	Geoform	15 October 2015
S96-06 Issue F	September 2015	Geoform	15 October 2015

Drawing No.	Dated	Prepared by	Received by Council on
S96-07 Issue F	September 2015	Geoform	15 October 2015
S96-08 Issue F	September 2015	Geoform	15 October 2015
S96-09 Issue F	September 2015	Geoform	15 October 2015
L/01 – L/03	19 June 2013	ATC Landscape Architects & Swimming Pool Designers	30 May 2014

- 5.1 The developer/applicant is to prepare a revised car parking and bicycle spaces allocation plan for the development, and submit it to the Principal Certifying Authority prior to the issuing of a Construction Certificate. The allocation plan must ensure car parking and bicycle spaces are correctly allocated to the dwellings within the residential component of the development, and to the commercial uses on the lower and upper ground levels.
 - 5.2 The Cantilevered Awning along the Canterbury Road frontage is to have a width of 3 metres.
 - 5.3 All residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012.
- 10A. In the event that the consent is not activated for DA-592/2014 is activated, the applicant/ developer shall provide a total of four hundred and two (402) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Three hundred and twenty two (322) residential spaces, twenty eight (28) of which retained as common property
 - 10.2 Fifty four (54) residential visitor spaces
 - 10.3 Twenty six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space
 - 10B. In the event that the consent for DA-592/2014 is activated, the applicant/ developer shall provide a total of four hundred and ninety-eight (498) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated as follows:
 - 10.1 Four hundred and five (405) residential spaces, thirty seven (37) of which retained as common property.
 - 10.2 Sixty five (65) residential visitor spaces
 - 10.3 Twenty-six (26) commercial spaces
 - 10.4 One (1) car wash bay
 - 10.5 One (1) courier space

If the development is to be strata subdivided, the car park layout must respect the above allocations.
14. Parking facilities/storage for 76 bicycles is to be provided on-site for the residential component and 5 spaces for the commercial component of the

development. These details must be shown on amended plans and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.

17. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The monetary contribution of \$3,118,164.79 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$282,039.89
• Community Facilities	\$2,756,788.46
• Plan Administration	\$79,336.44

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index, The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.canterbury.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

WE ALSO ADVISE:

- Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
- If you are not satisfied with this determination, you may:
 - Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or

If you require further information, please contact Miné Kocak in City Planning on 9789 9482, Monday to Friday.

DATE OF NOTICE:

for JIM MONTAGUE
GENERAL MANAGER

FW: 548 Canterbury Rd,

From: NICHOLSON Rachel A <rachel.nicholson@rms.nsw.gov.au>
To: "Stavis, Spiro" <spiros@canterbury.nsw.gov.au>
Cc: "Rahme, Eva" <evan@canterbury.nsw.gov.au>, "M, TROTTER Gordon" <gordon.trotter@rms.nsw.gov.au>
Date: Fri, 04 Dec 2015 09:51:49 +1100
Attachments: ATT00004 (27.08 kB); ATT00005.png (5.76 kB); ATT00006.png (3.99 kB); Response to Council -syd14_00035, 548 Canterbury Rd, Campsie.pdf (155.98 kB)

Hi Spiro

Apologies for the delayed reply, I was on leave yesterday. As discussed on Wednesday, we received the subject referral on Monday 30 November and have not had time to review this DA in detail. Noting it is a section 96 modification to an approved development for an additional 70 residential units, it is unlikely that our position on the proposed development would be substantially different from our response on the original DA (see attached). However, as our original response was issued some time ago, we will require updated comments from internal stakeholders before providing a formal response.

The DA has been referred to our Property section for comment. When we receive their comments, I will be able to finalise our formal response on the DA.

Kind regards
Rachel

Rachel Nicholson
A/Senior Land Use Planner
Network Management | Journey Management
T 02 8849 2702 | F 02 8849 2918
www.rms.nsw.gov.au

Roads and Maritime Services
Level 7 27 Argyle Street Parramatta NSW 2150

From: Spiro Stavis [mailto:Spiros@canterbury.nsw.gov.au]
Sent: Thursday, 3 December 2015 2:38 PM
To: NICHOLSON Rachel A
Cc: Eva Rahme
Subject: Re: Fwd: 548 Canterbury Rd,

Hi Rachel,

I left a phone message for you earlier today. Any update?

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 |
spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



>>> Spiro Stavis<spiros@canterbury.nsw.gov.au> 2/12/2015 10:24 PM >>>
Gordon

I refer to the email exchange below. The purpose of my email is to commend Rachel's exceptional efforts and willingness to assist in expediting this matter.

By way of history, the RMS provided its approval to a DA for a 6 storey mixed use development on this site last year. The approval has not been activated but is still valid.

This DA amends the previous approval by adding 2 extra floors to accommodate 70 extra units, and from a traffic point of view, the applicants traffic consultant including councils traffic engineer believe the amendments are satisfactory.

As you know, the DA is being considered at a council meeting tomorrow night and therefore RMS's advice prior to this meeting would be greatly appreciated..

I am willing to provide you with any resources to assist you if required.

Please call me tomorrow to discuss.

Regards

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: [9789 9487](tel:97899487) | F: [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

Begin forwarded message:

From: "Spiro Stavis" <spiros@canterbury.nsw.gov.au>
Date: 2 December 2015 at 5:43:08 PM AEDT
To: NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au>
Cc: "Andrewh@canterbury.nsw.gov.au" <Andrewh@canterbury.nsw.gov.au>, "Georgeg@canterbury.nsw.gov.au" <Georgeg@canterbury.nsw.gov.au>, Eva Rahme <Evar@canterbury.nsw.gov.au>, TROTTER Gordon M <Gordon.Trotter@rms.nsw.gov.au>
Subject: 548 Canterbury Rd,

It's more critical to get comments for 548 Canterbury Rd, the others can follow after. Please I need this before close of business tmrw.

RMS have already provided comments for this development previously. This DA is for alts/adds to add 2 extra floors to accommodate 70 extra units.

Please Rachel.

Regards

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: [9789 9487](tel:97899487) | F: [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 2 Dec 2015, at 5:18 PM, NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:

Hi Spiro

As discussed today, I've had a look at the subject DAs and am drafting responses now. I will have to wait for comments from our Property section before finalising our responses however. Their comments can be critical. They typically require at least two weeks to comment, however we did mark this referral as urgent.

Kind regards

Rachel Nicholson
 A/Senior Land Use Planner
 Network Management | Journey Management
 T 02 8849 2702 | F 02 8849 2918
www.rms.nsw.gov.au
 Roads and Maritime Services
 Level 7 27 Argyle Street Parramatta NSW 2150

From: Spiro Stavis [<mailto:spiros@canterbury.nsw.gov.au>]
Sent: Friday, 27 November 2015 10:09 PM
To: NICHOLSON Rachel A
Cc: Andrewh@canterbury.nsw.gov.au; Georgeg@canterbury.nsw.gov.au; Eva Rahme
Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)
 Hi Rachel

Just touching base to see when I can expect your comments?

Regards

Spiro Stavis | Director City Planning

City of Canterbury [137 Beamish St Campsie NSW 2194](#)

T: [9789 9487](tel:97899487) | F: [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 26 Nov 2015, at 8:25 AM, NICHOLSON Rachel A <Rachel.NICHOLSON@rms.nsw.gov.au> wrote:

Hi Spiro/Andrew

Can you please send the DA documentation through to development.sydney@rms.nsw.gov.au, and 'cc' myself. This will help avoid further delay in the registration process. I've asked our admin staff to create a file now to minimise delays.

Thanks

Rachel

Rachel Nicholson

A/Senior Land Use Planner

Network Management | Journey Management

T 02 8849 2702 | F 02 8849 2918

www.rms.nsw.gov.au

Roads and Maritime Services

Level 7 27 Argyle Street Parramatta NSW 2150

From: Spiro Stavis [<mailto:spiros@canterbury.nsw.gov.au>]

Sent: Thursday, 26 November 2015 7:20 AM

To: Andrewh@canterbury.nsw.gov.au

Cc: Eva Rahme; NICHOLSON Rachel A; Georgeq@canterbury.nsw.gov.au

Subject: Re: 212-218 Canterbury Rd, Canterbury (DA 168/2015) & 220 Canterbury Rd & Close St, Canterbury (DA 169/2015)

Andrew

Please email Rachel a package this morning. Very critical. Chase the applicant Jacob from CD design if you need anything.

Regards

Spiro Stavis | Director City Planning

City of Canterbury [137 Beamish St Campsie NSW 2194](#)

T: [9789 9487](tel:97899487) | F: [9789 1542](tel:97891542) | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

On 25 Nov 2015, at 10:36 PM, Spiro Stavis <spiros@canterbury.nsw.gov.au> wrote:

Hi Rachel,

I left a phone message for you today and spoke to James Hall.

I need an URGENT favour regarding this matter.

My staff have not referred these applns to RMS for concurrence and these DAs have been placed on Councils agenda to be determined on the 3 December 2015 council meeting. They are both recommended for approval.

The proposals are for the construction of 2 multi level mixed commercial residential buildings which share a common driveway to basement level parking accessed from Close St which is located within 90m from Canterbury Rd.

Is there any way you can please provide concurrence before the 3 December 2015 subject to conditions even if they are deferred commencement conditions. As I said, these DAs are scheduled to be determined on 3 December 2015.

I am happy to come to see you on Friday to brief you if it will assist.

I would not ordinarily ask, however, the matter is extremely urgent and your assistance would be greatly appreciated.

I apologise for any inconvenience caused.

Regards

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

Sent from my iPhone

Begin forwarded message:

From: "Spiro Stavis" <spiros@canterbury.nsw.gov.au>
Date: 25 November 2015 at 2:35:39 PM AEDT
To: jim.tsiriniagos@transport.nsw.gov.au
Subject: 212-218 Canterbury Rd, Canterbury (DA 168/2015)
Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au
Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

<nime-attachment>

Spiro Stavis | Director City Planning
City of Canterbury 137 Beamish St Campsie NSW 2194
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au

<nime-attachment>

<212-218 Canterbury Rd, Canterbury, Stop the Clock Letter- 3-7-15.pdf>

<Spiro Stavis.vcf>



Before printing, please consider the environment

IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.



E15-0078-037-0056

Before printing, please consider the environment

IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.



Before printing, please consider the environment

IMPORTANT NOTICE: This email and any attachment to it are intended only to be read or used by the named addressee. It is confidential and may contain legally privileged information. No confidentiality or privilege is waived or lost by any mistaken transmission to you. Roads and Maritime Services is not responsible for any unauthorised alterations to this email or attachment to it. Views expressed in this message are those of the individual sender, and are not necessarily the views of Roads and Maritime Services. If you receive this email in error, please immediately delete it from your system and notify the sender. You must not disclose, copy or use any part of this email if you are not the intended recipient.





Transport
Roads & Maritime
Services

31 January 2014

Our Reference: SYD13/00035
Your Reference: DA-509/2013
Contact: Ravi Raveendra
Telephone: 8849-2540

The General Manager
Canterbury City Council
PO Box 77
CAMPSIE NSW 2194

Attention: Hassan Morad

**DEMOLITION OF EXISTING STRUCTURE AND CONSTRUCTION OF
RETAIL AND RESIDENTIAL FLAT BUILDING
548-568 CANTERBURY ROAD, CAMPSIE**

Dear Sir/Madam,

Reference is made to Council's correspondence dated 7 January 2014 with regard to the abovementioned development application which was referred to Roads and Maritime Services (RMS) for comment.

RMS has reviewed the development application and provides the following advisory comments to Council for its consideration in the determination of the development application:

1. RMS raise no objections to the development proposal on property grounds provided all buildings and structures are clear of the Canterbury Road, road reserve (unlimited in height or depth)
2. Car parking provision to Council's satisfaction.
3. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002.
4. The developers should be aware of the potential for the existing and future road traffic noise impact from Canterbury Road on the proposed residential development on the subject site.

The developer should provide and maintain noise attenuation measures in accordance with EPA's Environmental Criteria for Road Traffic Noise. RMS will not provide noise mitigation for future residences on the subject land. RMS's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Roads & Maritime Services

Level 11, 27-31 Argyle Street, Parramatta NSW 2150 | PO Box 973 Parramatta CBD NSW 2150 DX28555 Parramatta
T 02 8849 2490 | F 02 8849 2918 | E development.sydney@rms.nsw.gov.au www.rms.nsw.gov.au | 13 2213

5. Council should ensure that post development storm water discharge from the subject site into the RMS drainage system does not exceed the pre development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works.

Details should be forwarded to :-

The Sydney Asset Management
PO Box 973
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before the RMS's approval is issued. With regard to the Civil Works requirement please contact the RMS's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

6. The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001) (Copy is attached).

7. All works associated with the proposed development shall be at no cost to RMS.

Please refer further enquiries to Ravi Ravendra on telephone 8849 2540 or via email at RaviN_Raveendra@rms.nsw.gov.au.

Yours sincerely



James Hall
Senior Land Use Planner
Network Management
Network and safety Section

Fwd: City Development Committee 3 Dec 2015 resolution re 548-568 Canterbury Road

From: Spiro Stavis <spiros@canterbury.nsw.gov.au>
To: "Daniel, Matt" <m.daniel@statewideplanning.com.au>
Cc: "Rahme, Eva" <evar@canterbury.nsw.gov.au>, "Gouvatsos, George" <georgeg@canterbury.nsw.gov.au>, "Kocak, Mine" <minek@canterbury.nsw.gov.au>, "Nakhle, Rita" <ritan@canterbury.nsw.gov.au>, "Stewart(tim@ddc-group.com.au), Tim" <tim@ddc-group.com.au>, "Demian, Charlie" [REDACTED]
Bcc: "Montague, Jim" <jmontague@canterbury.nsw.gov.au>
Date: Tue, 08 Dec 2015 09:59:31 +1100
Attachments: IMAGE.jpg (27.08 kB); Spiro Stavis.vcf (322 bytes)

Hi Matt,

Please see below Minutes of the meeting on 3 December 2015.

FYI, the consent cannot be issued unless we receive sign off from the RMS. The application was referred to them last week.

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 |

spiros@canterbury.nsw.gov.au | www.canterbury.nsw.gov.au



>>> Pina Rossi 7/12/2015 4:29 PM >>>

17 548-568 CANTERBURY ROAD, CAMPSIE: MODIFICATION TO APPROVED MIXED USE BUILDING INCLUDING ADDITIONAL BASEMENT PARKING
 FILE NO: 150/548D Pt3 & 4

Min. No. 475 RESOLVED (Councillors Azzi/Saleh)
 THAT

- A. The General Manager be authorised to issue the consent for modification application DA 509/2013/A, once concurrence is received from the RMS, subject to the conditions as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.
- B. The Committee decided not to accept the IHAP recommendation given that the application has now been referred to the RMS, and resolved to accept the Officer's recommendation.

-

18 548-568 CANTERBURY ROAD, CAMPSIE: CONSTRUCTION OF ADDITIONAL TWO LEVELS TO APPROVED SIX STOREY MIXED USE BUILDING COMPRISING ADDITIONAL RESIDENTIAL APARTMENTS
 FILE NO: 150/548D PT 3 & 4

Min. No. 476 RESOLVED (Councillors Azzi/Nam)
 THAT

- A. The General Manager be authorised to issue the consent for DA 592/2014, once the suitable concurrence is received from the RMS, subject to the conditions as recommended in the Director City Planning's report and any other conditions that arise as a result of the RMS concurrence.

E15-0078-037-0012-01

- B. The Committee decided not to accept the IHAP recommendation given that the application has now been referred to the RMS, and resolved to accept the Officer's recommendation.

-